



Order below Exh.20
Dated:-01.04.2026

This is an application filed by advocate of accused under Section 311 of Cr.PC to recall witness No.5 and 6 for cross-examination. The prosecution opposed the application by filing say on application itself.

2. The record shows that on 12.03.2026 the date of examination of PW5 and PW6, the advocate for accused was absent. The accused when questioned stated that he does not want to cross-examine the witnesses. Therefore, matter proceeded without cross by accused to PW5 and PW6. It shows that there is waiver of cross-examination on record by the accused. However, it is to be noted that the witness No.6 is Investigating Officer whose evidence is material. The absence of advocate and the statement of accused may not amount to an informed and conscious waiver of valuable right of cross-examination. In criminal trial fair opportunities to defend is paramount. Denial of cross-examination may cause serious prejudice to the accused. Hence, in the interest of justice the application is liable to allow with conditions. Consequently, I pass following order;

Order

- 1] Application is allowed.
- 2] PW5 and PW6 be recalled for cross-examination on payment of costs of Rs.500/- each.
- 3] Only one opportunities is granted to the accused.
- 4] No further adjournment shall be granted.

Date : 01/04/2026

Desaiganj.

(Satish G. Gore)

Judicial Magistrate First Class,
Desaiganj.