

IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS
40TH COURT, GIRGAON, MUMBAI.

C. C. No. 309/PW/2018

:- ORDER BELOW EXH. 54 :-

1. This is an application by accused to recall PW1 and PW2 as per Section 311 of CrPC. Read say by Ld APP. Heard both the sides. Perused the document.
2. Present case is pending since 2018. Defence advocate submitted that cross-examination of PW1 and PW2 is conducted by earlier advocate. Certain points, contradictions with documents, prior statements and deficiency were not asked earlier. Accused will suffer serious prejudice if that questions are not asked. Truth will not come on record. Hence he prayed to recall PW1 and PW2.
3. Ld APP opposed the application. He submitted that PW1 is examined in 2020. Evidence of PW2 is completed in January 2025. Detail cross-examination was conducted. Sufficient opportunity was already given to the accused. Witness can be recalled in exceptional circumstances. Accused failed to demonstrate that circumstances. Mere change of advocate or alleged inadequacy of earlier cross-examination is not valid ground to recall the witness. Hence he prayed to reject the application.
4. I have perused the proceeding carefully. Elaborate cross-examination is conducted by the defence side. Recall of witness cannot be granted to fill up earlier lacuna in cross-examination. Inadequacy of earlier cross-examination is not valid ground to recall the witness. There are no sufficient reasons to recall the witness. Hence application cannot be allowed. Hence the order :-

ORDER

Application is hereby rejected.

Mumbai.

Date :-23.03.2026

(S. R. Nimse)
Judicial Magistrate, First Class
40th Court, Girgaon, Mumbai.

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