

**ORDER BELOW EXH.37**

**(Passed on 19<sup>th</sup> November, 2024)**

The Learned A.P.P. has filed this application and submitted that the prosecution desires to issue summons to the witness Mr. Abdul Rashid Abdul Rahim Patel. Accused filed say and strongly opposed the application which submission that the complainant has filed compromise pursis at Exh.36 on 03.09.2024. The matter is compounding in nature and compounded by the complainant. The complainant submitted that he doesn't want to proceed further in a case. Hence, application is liable to be rejected.

2. Heard Learned A.P.P. and Learned Advocate for the accused.

3. The Mohd. Salim Abdul Kareem Patel has lodged report against the accused Nos.1 and 2. He alleged that his ancestral field situated at Mouza-Dorli, Field Survey Nos.94, 95 and 96, admeasuring area 43 Acres, the 7/12 extract of the said field bears the entry in the name of 27 persons of his family. On 28.01.2014, he came to know that some person illegally cut-down the trees from the boundary of said field. Hence, he lodged complaint accordingly, offence punishable under Section 379, 34 came to be registered against the accused Nos.1 and 2.

4. The informant Mohd. Salim Abdul Kareem Patel filed pursis at Exh.36 and submitted that the said matter is amicably settled and he doesn't want to proceed further. The Learned A.P.P. argued that Mr. Abdul Rashid Abdul Rahim Patel, has a share in the ancestral field. He doesn't want to compound the matter with the accused, he is a witness in this matter, he wants to adduce his evidence, hence, prosecution wants to examine witness. On perusal of complaint it appears that the complainant is not alone an owner of the field. The complaint shows that 27 persons are the joint owners of the ancestral field from which the accused person committed a theft of trees.

5. As considering the facts and circumstances, no prejudice would have been caused to the accused if prosecution examine witness Mr. Abdul Rashid Abdul Rahim Patel. Moreover, the accused shall have opportunity for the cross-examination of the said witness, hence, I pass the following Order.

**ORDER**

1. Application 37 is hereby allowed.
2. Issue witness Summons to the witness Mr. Abdul Rashid Abdul Rahim Patel.

Parseoni.  
Date 19/11/2024

(G.O.Wankhade)  
Civil Judge Junior Division,

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