

**Order Below Exh.48**  
**(In Sessions Case No. 109/2021)**

1. Application is filed by Prosecution for re-examining PW No.1 Mr. Jagdish @ Anil Harishchandra Dagade.
2. Say of Accused was called upon. Ld. Advocate for accused has objected the application but reasons for objection are not mentioned.
3. Heard Ld. Addl. P. P. Smt. Thalkar and Ld. Advocate Mr. Mahesh Gunjal for Accused No.1 & Ld. Advocate Mr. Ankit Bangera for Accused No.2.
4. Ld. Addl. P.P. has submitted that re-examination of this witness is necessary as statement of this witness recorded u/s. 164 of Criminal Procedure Code, 1973 (in short "Cr.P.C.") was not shown to witness and examination of this witness for showing him that statement is necessary. Ld. Adv. for accused has submitted that Prosecution is trying to fill up lacuna in case of Prosecution. Examination of this witness is not necessary.
5. Perused record. Following points arise for my determination and findings are answered with reasons as follows.

Sr. No.	Points	Findings
1	Whether Prosecution should be permitted to re-examine PW No.1?	Yes.
2	What order ?	Application is allowed.

**:: REASONS ::**

**As to point No. 1**

6. Today PW No.1 is present in Court as Prosecution has called him for examination. Ld. Advocate for Accused has not strongly objected for re-examination of this witness.

7. Section 311 of Cr.P.C. empowers the Court to summon any person as a witness or examine any person in attendance or recall and re-examine any person already examined. PW No.1 is already examined by Prosecution and Prosecution intends to show him his statement recorded u/s. 164 of Cr.P.C. If PW No.1 is re-examined then accused has an opportunity to cross-examine to PW No.1, therefore it will not cause any prejudice to accused. Considering principles of natural justice and in the interest of justice it would be proper to allow the application. Therefore point no.1 is answered in affirmative. Hence, I pass following order.

**:: ORDER ::**

1. Application is allowed.
2. Prosecution is permitted to re-examine PW No.1.

Application is disposed of accordingly.

Panvel,  
Dated :- 08/11/2022

Sd/-  
(S. C. Shinde)  
Asst. Sessions Judge  
Raigad-Panvel.