

Order below Exh. 57 in Sessions Case No. 5 /2020
(CNR NO.MHRT 010000582020)

Read application of accused and Say filed by Ld. Addl. P P Mr. Salvi for State. Perused case record. Heard Ld. Adv. Mr. Nene for accused and Ld. Addl. P P Mr.Salvi for State.

2. The accused has filed the application as per Section 311 of Cr.PC to recall PW 3 Smt. Awani Bhitale for further cross examination. The accused has contended in his application that the testimony of PW 3 Smt. Awani Bhitale is recorded in this case at Exh.No.50. During the cross examination of said witness, inadvertently accused has missed to ask questions in respect of some improvements made by said witness, to give some suggestions and record some denials. To make proper defence of accused in this case, it is necessary to ask such questions to PW 3 Smt. Awani Bhitale during her cross examination for accused. So, it is necessary to recall PW 3 Smt. Awani Bhitale for recording her further cross examination on behalf of accused to bring said facts on record. If such permission is not granted to accused then he may suffer injustice. On the contrary, if application is allowed, then prosecution may not suffer any prejudice. The accused is ready to deposit witness bhatta of said witness as per rules. So, accused has prayed to recall PW 3 Smt. Awani Bhitale for further cross examination on behalf of accused for just decision of case.

3. Ld. Addl. P P Mr. Salvi has filed his say and resisted the application. He has contended in his say that PW 3 Smt. Awani Bhitale remained present in the Court for recording her testimony on many dates and sufficient opportunity was given to accused to take

cross examination of said witness. There was much time received by accused in between examination in chief and cross examination of PW 3 Smt. Awani Bhitale. The application of accused filed for the reason that some suggestions are missed on the part of accused to be given to PW 3 Smt. Awani Bhitale in her cross examination is not proper reason to recall said witness. The reasons given by accused for recalling PW 3 Smt. Awani Bhitale for further cross examination in this case are not satisfactory. So, he has prayed to reject the application of accused.

4. Ld. Adv. Mr. Nene has argued for accused that some improvements came on record during examination in chief of PW 3 Smt. Awani Bhitale and accused missed opportunity to bring said facts on record and to give material suggestions and record denials about it in cross examination of that witness. He has further argued that to decide the said case in just and proper manner as well as to defend accused properly, it is necessary to record further cross examination of said witness by recalling her. If application is allowed, then prosecution may not suffer any prejudice. So, he has prayed to grant the application.

5. Ld. Addl. P P Mr. Salvi has argued for prosecution that the accused has received sufficient opportunity to take cross examination of PW 3 Smt. Awani Bhitale and the reasons mentioned in the application are not satisfactory. So, he has prayed to reject the application of accused.

6. It is case of accused that during the recording of examination in chief of PW 3 Smt. Awani Bhitale, some improvements are made by the witness and accused could not brought said fact on record in this

case in cross examination of that witness. So, the accused want to recall P.W 3 Smt. Awani Bhitale for bringing such improvements on record and make necessary suggestions and denials by taking further cross examination of said witness. The purpose of accused in recalling P.W 3 Smt. Awani Bhitale for further cross examination do not show that said witness is being recalled for filling the lacuna in the evidence. On the contrary, accused want to recall P.W 3 Smt. Awani Bhitale for further cross examination to bring improvements made by her in her examination-in-chief and to make suggestions and denials in that respect. If such opportunity is granted to the accused, then prosecution may not suffer any prejudice. Also, prosecution may receive opportunity to take re-examination of said witness if any new fact come on record during her further cross examination. So, in the interest of justice, it is proper to recall P.W 3 Smt. Awani Bhitale for further cross examination subject to payment of witness bhatta of said witness by accused. Hence, I pass following order.

ORDER

1. The application is allowed subject to payment of bhatta of Rs. 1000/-.
2. The witness of prosecution ie. P.W 3 Smt. Awani Bhitale is recalled for further cross examination on behalf of accused.
3. Issue fresh witness summons to P.W 3 Smt. Awani Bhitale subject to payment of witness bhatta.

Date : 07/01/2026

(Samir G. Baokar)
Adhoc District Judge - 1 and
Additional Sessions Judge, Ratnagiri

CERTIFICATE

I affirm that the contents of this pdf file order are same words as per original order.

Name of Stenographer : A.A. Shivalkar
Court Name : Adhoc District Judge - 1 and
Additional Sessions Judge, Ratnagiri
Date of Order : 07/01/2026
Order Signed by P.O. on : 07/01/2026
Order Digitally Signed by
P.O. on : 07/01/2026
Order uploaded on : 07/01/2026