

SCC No. 891/2017
Gurukrupa Gramin Bigar Sheti Sah. Patsantha
Sawarde Through Pandharinath Pawar
Vs
Santosh Yashwant Savaratkar

Order Below Exh.35

This is an application under Section 311 of Cr.P.C. for examining witness named branch Pandharinath Dhondu Pawar on behalf of the complainant. The accused filed his say to the present application at Exh.38 and strongly opposed the application. Heard the Ld. Advocate for complainant at length. Heard Ld. Advocate for accused. Admittedly, matter is posted at part heard stage. Now, complainant sought permission to record his further examination-in-chief and mark documents as exhibited.

2. It is settled principle of law that Section 311 of Cr.P.C. is not for filling up lacuna. However, said Section divided into 2 parts wherein in the first part, it is in discretion of Court to call the witness. Whereas in the second part it is mandatory to recall any witness if it is necessary to decide matter in controversy and in the interest of justice. For exhibition, by giving an opportunity to prove the documents, Section 311 can be invoked. This will not amounts to filling up lacuna as second part has casts burden on Court to exercise mandatorily said provisions to meet ends of justice. Moreover, an opportunity of cross-examination would be available to the accused. Therefore, it will also not caused any prejudice to either side. Therefore, this is fit case wherein powers under Section 311 of Cr.P.C.

can be invoked. However, for the delay at the hands of complainant, costs must be saddled. Hence, following order is passed.

ORDER

1. The application Exh.35 is allowed.
2. The complainant is permitted to record his further examination-in-chief for confrontation and exhibition of documents in question to prove the same, subject to payment of costs of Rs.200/- paid to accused.
3. Failure to comply order on or before next date, will amounts to automatic rejection of this application for which no further order is necessary.
4. Parties to note.

Sd/-

(Y. C. Patil)

Judicial Magistrate, First Class,
Chiplun.

Date : 18.04.2026.
Chiplun.

:-Certificate :-

I Affirm That The Contents Of This Order And The P.D.F. File Of This Order Are Same, Word To Word, As Per The Original Order.

Name Of Stenographer	Shri.M.E.Arekar
Name Of Court	Jt. C.J.J.D.& J.M.F.C.,Chiplun
Date Of Decision	18/04/2026
Order Signed By The P.O. On	18/04/2026
Order Uploaded On	18/04/2026