

MHSN030033342021	<u>ORDER BELOW EXH. 86 IN SCC NO. 2193/2021</u>
	Pawan Prakash Koparde Vs. Prakash Kallappa Birajdar

The present application is filed under section 311 of Cr.PC.

2. The present application is filed to reissue the summons to the Bank Manger of Union Bank of India, Br. Market Yard, Sangli for exhibiting the documents. It is the contention of the complainant that this Court has issued a summons to the responsible person from Union Bank of India Br. Sangli and accordingly, the witness Mahesh Khade appeared as per the directions from the Branch Manager. However, he failed to produce such authority letter on record. The accused during his cross examination has put question to that effect i.e. non production of the documents to which he answered in affirmative. Therefore, the evidence of the bank witness became contradictory to each other. Therefore, the witness may be recalled for the just and fair decision of the case and accordingly he prayed that the application be allowed.

3. The accused filed say below Exh. 87 and stated that, from the plain reading this application that this application is filed for the issuance of summons and re-issuance of summons is not

permissible in the eye of law. The contentions in the applications are the part of final argument. Considering this fact the witness cannot be recalled. Moreover the complainant has a chance to reexamine the witness. However, he didn't do so. Therefore, to wash out the admissions witness can not be recalled. Therefore, he prayed that the application be rejected.

4. Perused the application and say filed. Heard the complainant and the accused didn't argue.

5. In the entire application the complainant has pointed out contradictions of evidence of the bank witness of Union Bank of India. The complainant is seeking examination of Branch Manager or responsible person from the Union Bank of India. Admittedly, no authority letter is filed on record for Union Bank of India. The witness in his examination in chief has mentioned that he got authority from Branch Manager of Union Bank of India for deposing in this matter. Considering this technical issue recalling of witness is necessary. However, instead of issuing summons to Branch Manager or responsible person it will be proper to recall the witness on the said limited point and the production of authority letter. The accused will be at no harm if the said witness is recalled as he has opportunity to cross examine the said witness on the said limited point. In the instant matter as soon as the complainant came to know that he has not filed authority letter in writing on record. He could have seek an adjournment. Yet he choose to continue and this

has cost the present proceeding in a delay and therefore, some strict condition needs to be impose on him. In result, I pass following order-

ORDER

1. The application is allowed.
2. The witness responsible person from Union Bank of India is recalled vide section 311 of CrPC subject to witness bhatta of Rs. 800/-.
3. The witness is directed to appear before the Court alongwith authority letter to depose in the matter.

Place : Sangli.
Date : 15/04/2026.

(Rohini S. Patil)
Judicial Magistrate First Class,
(Court no.1) , Sangli.