

ORDER BELOW EXH.17 IN RCC NO. 87/2024

(State of Maharashtra V/s. Ramesh Pujari & Ors.)

(CNR No.MHSO1900-0702-2024)

The present application is filed by the prosecution for recall of witness under Section 311 of Code of Criminal Procedure, 1973.

02] It is the case of the prosecution that the informant testimony was recorded on the previous date. In the course of the proceedings, the prosecution inadvertently failed to show the witness their under Section 164 Cr.P.C. statement recorded. However, it is the case of the prosecution that sufficient opportunity was not granted to the prosecution to lead evidence. Hence, the informant be recalled as she is not examined by the prosecution.

03] The learned advocate for the accused has submitted that the present application is not tenable at this stage. Already chief and cross examination of informant is completed. If such application is allowed this will amount to till lacuna of the prosecution case. Hence, application is not maintainable in the eye of law. Hence, the application be rejected.

04] I have perused the record it appears that informant testimony was recorded on the previous date. Sufficient opportunity was granted to the prosecution to examine the informant. Already chance given to the prosecution and chief and cross examination of informant is completed. It is settled law that powers under Section 311 of Cr.P.C. cannot be exercised in a routine manner. It is pertinent to note that as per the prosecutions case 164 statement left to be shown the informant. I am of the considered view that if the witness is recalled for the purpose of infronting 164 statement it would amount to filing in the lacuna in the prosecutions case which is not permissible. Further, informant who is a necessary witness for the just

adjudication of the case is already examined. Hence, I pass the following order;

ORDER

The application is rejected.

Date : 17/08/2026

(N. P. Baji)
Judicial Magistrate First Class,
Mohol.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file of Judgment/Order are the same, word as per the original Judgment.

Name of the Stenographer - III	P.D.Mane
Name of the Court	Shri. N. P. Baji Jt.C.J.J.C. & J.M.F.C., Court, Mohol.
Judgment dictated on	17/08/2026
Judgment signed by the Presiding Officer on	17/08/2026
Judgment / Order uploaded on	17/08/2026