



**Sessions Case No.118/2022**

**State of Maharashtra**

**...Applicant**

**V/s.**

**Dattatraya Ramchandra Jadhav etc.**

**...Accused**

**ORDER BELOW EXH.88**

By this application, the accused are seeking to recall the witness named; Rahul Chhagan Khade for further cross-examination by invoking Section 311 of the Code of Criminal Procedure.

2. It is contended that some documents were shown to witness no.1 during cross-examination but those are not exhibited. It is further contended that some relevant questions were not put to the witness regarding the incident. On these counts, accused have prayed to recall the witness for further cross-examination. Moreover, the accused have also prayed to direct the witness no.1 to bring on record the duty-chart dated 04.05.2018 and 06.05.2018.

3. The State has filed reply Exh.90 and contended that the application is not legal and it is an attempt made by accused to fill up the lacunae in the evidence. During the cross-examination of witness Rahul Khade, no documents were referred or called. The accused cannot call documents through witness. The law does not permit for the same. On these counts, the State has prayed to reject the application.

4. I have heard Ld. Advocate Shri. A.A.Doiphode for

accused and Ld. A.P.P. Shri. Nimbalkar for the State.

5. After hearing both the Ld. Advocates, I have carefully gone through the evidence of Rahul Chhagan Khade. His examination-in-chief was over on 04.01.2024. Then his part of cross-examination was completed on 04.01.2024 itself. Further cross-examination was done on 12.03.2024 and then on 20.09.2024. Thus, the witness was under cross-examination for the period of 9 months. Hence, it is not the case appearing from record that any opportunity to cross examine the witness was denied. As per Section 311 of the Cr.P.C., a witness can be examined if present, though not summoned or a witness can be recalled and re-examined who is already examined. However, if for just decision of the case recalling or re-examination of a person is necessary, the Court can do so.

6. On the above backdrop, if the contentions in the application are seen, there is no reference as to what documents were referred to the witness in cross-examination. It seems that the duty-list was shown to the witness during cross-examination. Prima facie, if the duty-list is admitted by accused there is no harm to exhibit the same. Moreover, the accused has liberty to specifically admit those documents. As such, recalling of witness merely to exhibit the document is not necessary.

7. Other aspect is that regarding the incident the cross-examination was not conducted. In this regard, it shall be noted that referring to the incident, cross-examination is already conducted when Rahul Khade was being cross-examined. Therefore, now if on the count that material cross-examination is not done regarding incident the witness is recalled, it would amount to filling the lacunae of the

case which is not permitted in law. Most importantly, the instant application has been filed after almost 1 ½ year after completion of evidence of Rahul Khade. Therefore, I do not find any merit in the instant application. The application does not fit in the legal requirements of Section 311 of the Cr.P.C. Therefore, the application being devoid of merit and substance, has to be rejected. Hence I pass the following order.

**ORDER**

Application (Exh.88) is rejected.

[Dictated and pronounced in Open Court]

Satara  
Date : 09.06.2026.

( N.M.Jamadar )  
Additional Sessions Judge, Satara.