

13.08.2026.

For orders

**ORDERS ON APPLICATION UNDER SECTION 311 OF Cr.P.C FILED
BY ADVOCATE FOR ACCUSED.**

The advocate for accused has filed this instant application under Section 311 of Cr.P.C, seeking to recall the PW.1 for cross-examination, for the reasons stated in the application.

2. In the application, the advocate for accused has contended that on the previous date of hearing i.e., on 04.06.2026 when the case stage was set for cross-examination of PW.1, on the said date his counsel was engaged in Hon'ble High court and junior counsel sought adjournment for cross-examination of PW.1, but this court had rejected the prayer of his colleague and the cross-examination of PW.1 was taken as nil and set the case stage for defence evidence. The accused has got good case on merits, hence, the cross-examination of PW.1 is very much essential to establish the defence of accused for just decision of the case. Hence, prays to allow the application in the interest of justice and equity.

3. On the other hand, the learned counsel for complainant filed objections to the said application stating that the application is not maintainable either in law or on the facts. The accused has filed this instant application only with an intention to drag the proceedings, as such, the said application is not maintainable. The accused had obtained bail on 22.09.2022 and the matter was posted for cross-

examination of PW.1. Since 2022, the accused had dragged the cross-examination of PW.1 and seeking adjournments for one or other reasons. In the instant case, the accused is habitual in filing similar type of application one after the other and this Hon'ble Court was allowed the said application and given sufficient opportunities to accused for cross-examination of PW.1, but she failed to cross-examine the PW.1 and when the case stage was set down for defence evidence, the accused has filed the instant application only with an intention to drag the proceedings and the reasons assigned in the application are not maintainable. On these grounds, the learned counsel for complainant prays to dismiss the application.

4. Heard arguments and perused the materials available on record.

5. The advocate for accused argued that the instant complaint is filed by the complainant against the accused for the offence punishable under Section 138 of N.I. Act. That the accused has no intention to drag the proceedings, the accused has come before this court with this application without any intention to delay or to defeat the purpose of justice. The accused undertakes to co-operate for speedy disposal of the instant case. That the accused has good case on merits, hence the cross-examination of PW.1 is very much necessary to adjudicate the matter. The said delay is bonafide and not intentional.

6. It is well settled principle of law that the rights of the parties is to be adjudicated on merits. Only on the technical aspects the justice cannot be denied. By considering the facts and circumstances of the case, this court is of the considered opinion that in the ends of justice it is just and necessary to provide one more opportunity to the accused in order to prove her defence. No prejudice would be caused to the other side by allowing this application. The

inconvenience that may be caused to the other side would be compensated by imposing suitable cost. Accordingly, this court proceeds to pass the following:

ORDER

The application filed by the advocate for accused under Section 311 of Cr.P.C. is hereby allowed **on cost of Rs.1,000/-**.

PW.1 is recalled for cross-examination.

Looking into the stage, nature and age of the instant case, both the parties are hereby directed to co-operate to dispose-off the matter at the earliest without seeking unnecessary adjournments.

**Call for payment of cost and cross of PW.1
by 23.09.2026.**

XVIII Addl.C.J.M, Bengaluru.