



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 1638 OF 2026 (GM-RES)

BETWEEN:

SRI. G C BASAVARAJ
S/O K. CHANDRAPPA,
AGED ABOUT 51 YEARS,
PROPRIETOR, PAWAN POULTRY FARM,
GULLEEHALI POST,
CHANNAGIRI TALUK - 577 213

...PETITIONER

(BY SRI. SANTOSH R NELKUDURI., ADVOCATE)

AND:

CHIRAG TRADERS
REGISTERED UNDER COMPANIES ACT
REPRESENTED BY ITS PROPRIETOR,
SHIVAPRAKASH H.P.,
S/O LATE H.P. PRABHAPPA,
AGED ABOUT 57 YEARS,
PLOT NO.23, SHANTI SWARUP,
NEAR RING ROAD, ISLAMPUR,
OFFICE AT I MAIN, 4TH CROSS,
VIDHYANAGAR,
DAVANAGERE- 577 005

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET

Digitally
signed by
KIRAN
KUMAR R
Location:
HIGH COURT
OF
KARNATAKA



ASIDE THE IMPUGNED ORDER DATED 29.11.2025 IN ANNEXURE-E C.C.NO.596/2021, PENDING ON THE FILE OF HON'BLE JMFC II ADDITIONAL CIVIL JUDGE AND JMFC AT DAVANAGERE, IN REJECTING THE APPLICATION FILED UNDER SECTION 311 OF CR.P.C., AGAINST THE PETITIONER AS PER ANNEXURE-D, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

1. The petitioner is before this Court calling in question an Order dated 29.11.2025 passed by the concerned Court in C.C. No.596 of 2021 which rejects an application filed by the petitioner under Section 311 of the Code of Criminal Procedure, 1973.
2. The petitioner is the accused and the respondent-the complainant. The issue in the *lis* is not with regard to the merits of the matter. The accused files an application before the concerned Court seeking recall of DW-2 for further cross-examination. The same comes to be rejected by the following order:



"ORDERS ON APPLICATION FILED
U/Sec.311 of Cr.P.C BY THE ACCUSED

The accused has filed application u/sec.311 Cr.P.C for prayed to re-open the further evidence of defence and also adduce one witnesses evidence.

2. In the application, the accused submits that, HDFC Bank official by name Hrishikesh had been examined as a DW.2 on behalf of the accused and now the case is posted for arguments. During the course of cross examination of DW.1 a suggestion was put forth to him to which he agreed. But the banking business is continued via computer and through online only. It was suggested that, cheque was not honored as the stop payment advise was given as cheque was lost. However, no such advise was given by the accused to his banker. But off late accuse came to know that there are computerized reasons stored and whatever the reason through given, the banker used to give a common reason as cheque lost. Hence, such answer is just evasive and misroutes the defense of the accused. Hence, an



explanation is to be extracted from the mouth of DW.2 to that extent. As such, re-examination of DW.2 is necessary in order to reveal what are the kinds or reasons use to give b the banker whenever stop payment advise was given by the customer. Re-examination of DW.2 is certainly necessary to ensure the justice to the both the parties and also assist the court to arrive at a proper conclusion. Hence, re-examination of the DW.2 has become incumbent. Reason for the present application is reasonable and bona-fide in nature. Hence, prayed to allow the application.

3. On the other hand, the complainant has filed objections and stated that, application filed on behalf of the accused under section 311 Cr.P.C is not at all maintainable in the eye of law. The accused is trying to withdraw the admissions made by DW.2 during the course of cross examination, the same is not permissible under law. The accused is not entitled the application relief at the hands of the court. There are no bonafides in filing the application. The application is tainted with several malfides. The accused has filed this application with an ulterior motive and



intention to protract the proceedings in one way or the other. When the matter was set down for arguments, the accused came up with this application, the same is highly belated one. The reasons assigned in the application are baseless and untenable. Hence prayed to dismiss the application.

4. Heard the arguments from the both sides.

5. The following points that would arise for my consideration:

1. Whether the application filed by the accused U/s 311 of Cr.P.C. is deserves to be allowed?

2. What order?

6. My answers to the above points are as follows;

Point No.1: In the Negative.

Point No.2: As per final order for the following:



REASONS

7. Point No.1: I have gone through the complaint and documents, it is clearly shows that the complainant has filed a case against the accused for the offences punishable under Sections 138 of the N.I.Act. Admittedly, both side evidence is completed and the matter is posted for arguments. At this stage the accused has filed this I.A. for reopen the stage of re-examination of DW.2. Further he stated that said cross examination of DW.2 is very much necessary to proving of his defence.

8. On perusal of the evidence of DW.2 has deposed that, all the stop payment documents are send to the Davangere Branch and also said documents are marked Ex.D19 to Ex.D21. Presently the application filed by the accused for re-examination of the DW.2 that, what are the reasons use to give by Bankers whenever stop payment of advise was given to the customers. On perusal of the Ex.D19 that, the accused has filed a application to the bank for the purpose stop payment of the cheque, in that application himself the accused has mentioned the



reason to stop the payment. Therefore the mere suggestions/questions to the DW.2 that, in what reasons stop the payments of cheques, not required to re-examination of the DW.2. Already completed the evidence of DW.2 and also he has produced the document. Hence, at this stage re-examination of the DW.2 is not necessary. Hence, the accused not made out a ground to allowed the application. Hence, this court answered point No.1 in the Negative.

9. Point No.2: As per the above discussion, I proceed to pass the following;

ORDER

The application filed by the accused U/Sec.311 of Cr.P.C is hereby rejected."

3. Learned counsel for the petitioner submits that there is an assumption by the Court that stop payment would also come within the ambit of the offence under Section 138 of Negotiable Instruments Act, 1881 or otherwise.



4. The issue need not detain this Court for longer and delve deep into the matter, since it is a settled principle that all these matters would be matters of evidence before the concerned Court. The petitioner is wanting to further cross-examine DW2. The concerned Court, by rendering reasons that are cogent, has rejected the application. There is no warrant of interference in rejection of the application.
5. The petition is accordingly ***disposed of***.

Sd/-
(M.NAGAPRASANNA)
JUDGE

RK
List No.: 1 Sl No.: 213