



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 200558 OF 2026

(482(Cr.PC)/528(BNSS))

BETWEEN:

ADAMALI
S/O DAWOODBAI INDIWALE
AGE: 50 YEARS, OCC: COOLIE
R/O ASAR GALLI, DIST: VIJAYAPUR-586104

...PETITIONER

(BY SRI. MOINAKHTAR NADAF., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH THE PSI
GOLGUMBAZ POLICE STATION
REP. BY ADDL. SPP
HIGH COURT OF KARNATKA
AT KALABURAGI-585107

...RESPONDENT

(BY SRI.JAMADAR SHAHABUDDIN, HCGP)

THIS CRL.P IS FILED U/SEC. 482 OF CR.P.C (OLD) U/SEC. 528 OF BNSS (NEW) PRAYING TO I) SET ASIDE THE ORDER DATED 16.03.2026 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND CJM VIJAYAPURA IN CRIME NO.270/2015 IN C.C.NO.120/2016 WHEREBY THE APPLICATION FILED U/S.311 OF CR.P.C FOR RECALLING OF WITNESSES FOR CW-2, CW-3, CW-5 AND CW-8; II) DIRECT THE TRAIL COURT TO AFFORD A REASONABLE OPPORTUNITY FOR EVIDENCE IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.





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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

This petition is filed under Section 528 of BNSS,
2023 seeking following relief's:

"Wherefore it is most humbly prayed that this
Hon'ble Court be pleased to:

- (i) Set aside the order dated 16.03.2026 passed by the Prl. Senior Civil Judge & CJM, Vijayapura in Crime No.270/2020 in C.C.No.120/2016 whereby the application filed under Section 311 of Cr.P.C., for recalling of witnesses for CWs.2, 3, 5 and 8;
- (ii) Direct the trial Court to afford a reasonable opportunity for evidence in the interest of justice and equity.
- (iii) Grant any other such relief/reliefs in favour of the petitioners that this Hon'ble Court may be deemed fit in the facts and circumstances of this petition, in the interest of justice and equity"

2. Heard the learned counsel for the petitioner and
the learned High Court Government Pleader for the
respondent No.1-State.



3. Petitioner is the complainant in the present case. The trial Court vide order dated 16.03.2026 has passed the following order:

"Accused Nos.1 to 9 present.

APP filed application under Section 311 of Cr.P.C. for recall of CWs.2, 3, 5 and 8. Same is rejected since the case is of 2016.

313 statement of the accused is recorded.

313 statement of the accused is denied and denied all the incriminatory evidence.

Advocate for accused submitted no defence evidence.

For arguments, call on 18.03.2026."

4. On 16.03.2026, learned APP filed application under Section 311 of Cr.P.C., to recall CWs.2, 3, 5 and 8. In the application, it is stated that the above said witnesses are required to prove the case of the complainant. The trial Court has rejected this application only on the ground that statement under Section 313 of Cr.P.C., is already recorded and the matter pertaining to the year 2016 on this ground application is dismissed.



5. On perusal of order sheet pertaining to C.C.No.120/2016, reveals that the trial Court has issued NBW to CWs.2, 3, 5 and 8. Same was not executed. Before execution of the NBW, the trial Court has not passed any order in this regard. On 12.03.2026, the learned APP requested the Court to re-issue summons to CWs.2, 3, 5 and 8. Same was rejected without assigning any reasons. When the Court has issued NBW to secure the presence of witnesses CWs.2, 3, 5 and 8, it is the duty of the Court to ensure that whether NBW is executed or not. Without passing any order in this regard, the trial Court has rejected the prayer of learned Asst. Public Prosecutor. Hence, the reasons assigned by the trial Court for rejecting the application under Section 311 of Cr.P.C., is not in accordance with law. Accordingly, I proceed to pass the following:

ORDER

(a) The petition is ***allowed***.



(b) The impugned order dated 16.03.2026 in C.C.No.120/2016 passed by the Principal Senior Civil Judge and CJM, Vijayapura, is set aside. Consequently, the application filed under Section 311 of Cr.P.C., is allowed.

(c) The trial court is directed to issue summons to CWs.2, 3, 5 and 8 as sought for.

Sd/-
(G BASAVARAJA)
JUDGE