



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 30TH DAY OF DECEMBER 2025
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL
CRIMINAL PETITION NO. 105291 OF 2025
(482(Cr.PC)/528(BNSS))

BETWEEN:

SHIVAPA S/O. RAYAPPA VANNURI
AGE: 53 YEARS, OCC: AGRICULTURE,
R/O. 710/1, DURGA GALLI,
NEW VANTAMURI, TALUKA: BELAGAVI,
DISTRICT: BELAGAVI.

...PETITIONER

(BY SRI. RAVIRAJ C.PATIL, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY SPP.,
HIGH COURT OF KARNATAKA, DHARWAD,
THROUGH KAKATI PS, BELAGAVI.
2. KALLAGOUND S/O. PARAPPA MELGADEMANE,
AGE: 33 YEARS, OCC: DRIVER,
R/O. MALAGI ROAD, HOSAVANTAMURI,
TALUKA AND DISTRICT BELAGAVI-591156.

...RESPONDENTS

(BY SRI. ASHOK T.KATTIMANI, AGA)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C. (528 OF BNSS), SEEKING TO IMPUGNED ORDER DATED 12/12/2025 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI IN S.C. 211/2019 PENDING FOR OFFENCES PUNISHABLE U/S 143, 147, 148, 341, 323, 307, 302, 504 R/W 149 OF I.P.C. MAY KINDLY BE QUASHED AND ETC.

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

CHANDRASHEKAR
LAXMAN
KATTIMANI



Digitally signed by
CHANDRASHEKAR
LAXMAN KATTIMANI
Date: 2025.12.30
16:59:31 +0530



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL)

Learned Additional Government Advocate accepts notice for respondent No.1.

2. Heard learned counsel for the petitioner and learned Additional Government Advocate for respondent No.1/State.

3. Learned counsel for the petitioner submits that, the petitioner is accused No.1 in S.C.No.211/2019 on the file of II Additional District and Sessions Judge, Belagavi ("the Trial Court" for short) and in the said proceedings he filed an application under Section 311 of Cr.P.C. seeking to recall PW.3 for further cross-examination, which came to be rejected by the Trial Court. It is submitted that the petitioner immediately filed this petition on 15.12.2025 and matter could not reached. Hence the petitioner/accused No.1 requested the Trial Court to defer the matter till consideration of his petition before this Court. However, the Trial Court is proceeding with the matter and posted the matter for final hearing. It is submitted that PW.3 is alleged injured eyewitnesses and the



petitioner/accused No.1 is required to cross-examine him in further and right to cross-examination is a substantive right of the accused and not providing such an opportunity by the Trial Court would amounting to deprive of the principles of natural justice. Hence, he seeks to allow the petition.

4. *Per contra*, Sri Ashok T. Kattimani, learned Additional Government Advocate opposed the petition and submits that the Trial court has passed the detail order rejecting the application. It is submitted that sufficient opportunity was given to the accused to cross-examine PW.3. However, the matter was dragged on and hence the Trial Court rejected the application, which does not call for any interference.

5. I have heard the arguments of the learned counsel for the petitioner as well as learned Additional Government Advocate appearing for respondent No.1/State and perused the material available on record.

6. The records indicate that, the matter was set-down for arguments and at that stage accused No.1 filed an



application under Section 311 of Cr.P.C seeking to recall PW.3 for further cross-examination. The records indicate that PW.3 is an injured eyewitness as per the prosecution. It is noticed that the Trial Court given sufficient opportunity to accused No.1/petitioner, but the said opportunity was not availed by him.

7. However, this Court cannot loose sight of the fact that, the right to cross-examine the prosecution witness is a substantive right available to the petitioner/accused No.1 and by providing one opportunity, the interest of justice would be met. The records indicate that the accused No.1 could not effectively cross-examined PW.3 and providing an opportunity to cross-examine PW.3 is necessary for fair trial and for proper adjudication of case

8. Taking note of the nature of the order being passed, issuance of notice to respondent No.2 is dispensed with.

9. The Trial Court under the impugned order has recorded the detail reasons for rejection of the application. In



my considered view, those reasons are justifiable, however one opportunity is required to be provided to accused No.1 to cross-examine PW.3, who claims to an injured eyewitness. However, the same shall be subject to terms. Hence, I proceed to pass the following:

ORDER

- (i) The petition is hereby allowed.
- (ii) The impugned order dated 12.12.2025 passed in S.C.No.211/2019 on the file of II Additional District and Sessions Judge, Belagavi is set aside.
- (iii) The Trial Court is directed to issue summons to PW.3 for cross-examination, subject to petitioner/accused No.1 paying costs of Rs.5,000/- to PW.3.

Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE

EM
CT:VH:
List No.: 2 SI No.: 1