



CNR: KAHC010510032024

NC: 2026:KHC:52109
CRL.P No. 9462 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 9462 OF 2024

BETWEEN:

NAVEEN D'SOUZA
S/O SRI SIMON D'SOUZA,
AGED ABOUT 35 YEARS,
R/AT BEEDI PALKE HOUSE,
NAVOOR POST, BANTVAL TALUK,
MANGALORE-574211

...PETITIONER

(BY SRI. RAJASHEKAR S, ADVOCATE)

AND:

VOILET RANI
W/O WILLIAMS,
AGED ABOUT 50 YEARS,
R/AT RAJENDRANAGARA BEHIND
AMBEDKAR CHOULTRY,
CHITRADURGA TOWN-577 501

...RESPONDENT

(BY SRI. SHIVAKUMAR M.V, ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528
BNNS) PRAYING TO SET ASIDE THE ORDER DATED 14.03.2024

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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PASSED ON THE APPLICATION FILED UNDER SEC.311 OF CR.PC IN C.C.NO.16/2020 ON THE FILE OF I ADDL.CIVIL JUDGE AND J.M.F.C CHITRADRUGA REJECTING THE SAID APPLICATION FILED BY THE PETITIONER AND THEREBY ALLOW THE SAID APPLICATION AS PRAYED FOR.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. challenging the order dated 14.03.2024 passed in CC No.16/2020 by the I Additional Civil Judge and JMFC, Chitradurga (for short, 'the learned Magistrate'), whereby the learned Magistrate, rejected the application filed by the petitioner-accused under Section 311 of Cr.P.C. to re-call PW1 for cross-examination.

2. The factual matrix of the case is that respondent-complainant filed a private complaint against the petitioner-accused for the offence punishable under Section 138 of the N.I. Act. In the said proceedings, respondent No.2 examined herself as PW.1 and was partly cross-examined by the



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petitioner on 28.12.2023. Thereafter, the petitioner remained absent on several dates of hearing. When the proceedings had reached the stage of judgment, the petitioner filed an application under Section 311 of the Cr.P.C. seeking recall of PW.1 for further cross-examination. The learned Magistrate, by the impugned order, dismissed the said application with costs of Rs.1,000/-. Aggrieved by the same, the petitioner has preferred the present petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Learned counsel for the petitioner-accused contended that, due to unavoidable circumstances, the learned counsel representing the petitioner had to travel from Mangaluru to Chitradurga and, therefore, could not fully cross-examine PW.1. Consequently, the learned Trial Court recorded that there was "no further cross-examination." Hence, the petitioner filed an application seeking recall of PW.1 for further cross-examination, which came to be dismissed by the learned Trial Court vide order dated 14.03.2024. It is further submitted that further cross-examination of PW.1 is necessary for proper



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CRL.P No. 9462 of 2024

adjudication of the case. Accordingly, learned counsel prayed that the petition be allowed and the impugned order dated 14.03.2024 be set aside.

5. *Per contra*, learned counsel for the respondent opposed the prayer of the petitioner and contended that, despite granting sufficient opportunity to the petitioner-accused to cross-examine PW.1, he failed to avail the same. It is further contended that the application has been filed only with an intention to protract the proceedings. Accordingly, learned counsel prays for dismissal of the petition.

6. I have given my anxious consideration to the submission made by the learned counsel for the respective parties so also perused materials on record.

7. As could be gathered from records, the learned Magistrate had granted sufficient opportunity to the petitioner-accused to cross-examine PW.1-complainant. However, after partly cross-examining PW.1, the petitioner remained absent on subsequent dates of hearing. When the matter was posted for judgment, the petitioner filed an application seeking recall of



CNR: KAHC010510032024

NC: 2026:KHC:52109
CRL.P No. 9462 of 2024

PW.1 for further cross-examination, which came to be dismissed with costs.

8. It is also forthcoming from the records that, on an earlier occasion, the petitioner had filed a similar application seeking recall of PW.1, which was allowed subject to payment of costs of Rs.1,000/-. Despite being afforded such opportunity, the petitioner failed to further cross-examine PW.1.

9. Though there are no sufficient grounds to interfere with the impugned order passed by the learned Magistrate, in the interest of justice, I am of the considered view that one final opportunity may be granted to the petitioner-accused to further cross-examine PW.1, subject to payment of reasonable costs. Accordingly, I proceed to pass the following:

ORDER

- i. The petition is ***allowed.***
- ii. The order dated 14.03.2024 passed in C.C.No.16/2020 by the I Additional Civil Judge and JMFC, Chitradurga, is set aside.



CNR: KAHC010510032024

NC: 2026:KHC:52109
CRL.P No. 9462 of 2024

iii. Consequently, the application filed by the petitioner under Section 311 of Cr.P.C dated 19.01.2024 before the Trial Court is **allowed** subject to payment of costs of Rs.10,000/-.

iv. The respondent-PW.1 shall be present before the Trial Court on the next date of hearing i.e., on **30.10.2026** and on that day itself the petitioner shall cross examine PW.1 fully after the payment of cost of Rs.10,000/- to PW.1, failing which the Trial Court shall post the matter for judgment.

v. The Trial Court is requested to dispose the case at earliest.

vi. Both the parties shall not take any further adjournments.

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 Sl No.: 8