

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 5 OF 2015**

1. M/s. Ambaal Holdings
B-80, Deyavasandra Industrial
Estate, White Field Road,
Mahadevapura, P.O.
Bangalore 560 048
2. Mr. Sandeep Agarwal, major
B-80, Deyavasandra Industrial
Estate, White Field Road,
Mahadevapura, P.O.
Bangalore 560 048
And residing at Flat No.106,
Salarpuria Cambridge
Residency, Ulsoor, Bangalore. .. Petitioners

Versus

1. Pyramid Finance Private Limited
A Company incorporated under
the Companies Act, 1956, having
its registered office at Salgaocar
House, Off Francisco Luis Gomes
Road, Vasco-da-Gama Goa 403 802
and Corporate Office at
Third Floor, Salgaocar Centre,
Rua de Ourem, Panaji, Goa. 403 001
Represented herein by its duly
Constituted Attorney
Ms. Leena M. Hede. .. Respondent

Mr. Vivek Rodrigues, Advocate for the petitioners.

Mr. Nigel Da Costa Frias, Advocate for the respondent.

CORAM :- C. V. BHADANG, J.

Date : 23rd March, 2015.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith.

2. The learned Counsel for the respondent waives notice on behalf of the respondent.

3. Heard finally, with the consent of the learned Counsel for the parties.

4. The petitioner is the original accused in a complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881 (the Act, for short). After the respondent/complainant had closed his side, the petitioner had entered into the witness box on 18/12/2014 and his cross-examination was partly recorded. The matter was, thereafter, adjourned to 08/01/2015 for further cross-examination. On that day, an application came to be filed on behalf of the petitioner for exemption. The learned Magistrate, by order of the even date, while granting the exemption, had proceeded to close the evidence of the petitioner. Feeling aggrieved, the petitioner has approached this Court.

5. On hearing the learned Counsel for the parties, it appears that it was only on 18/12/2014 that the further cross-examination of the petitioner was deferred. It is a common ground

that the further cross-examination was deferred as the Court time was over and it was fixed on 08/01/2015. On that day, the petitioner had sought exemption which was granted. However, the evidence was closed. The impugned order shows that what weighed the Magistrate is that the application was not supported with Medical Certificate. Considering the overall circumstances, I find that a fair opportunity can be granted to the petitioner in the matter. The learned Counsel for the respondent has alternatively submitted that in the event this Court is inclined to allow the petition, a date may be fixed for the parties to attend the Court of Judicial Magistrate, First Class, Panaji, so that the further cross-examination can be recorded/ completed.

6. In such circumstances, rule is made absolute in terms of prayer clause (a). The impugned order is hereby quashed and set aside. The petitioner shall attend the Court of Judicial Magistrate, First Class, Panaji on 07/04/2015 at 2.30 p.m. for recording further cross-examination. No order as to costs.

7. Criminal Writ Petition is disposed of in the aforesaid terms.

C. V. BHADANG, J.

SMA