

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 576 OF 2014
ALONGWITH
CRIMINAL WRIT PETITION NO. 577 OF 2014**

1. Shri Afzal Haji Abdullah Noorani
2. Smt. Azra Afzal Noorani ... Petitioners.

V/s.

State of Maharashtra & Others. ... Respondents.

Mr. Kiran Doiphode, Advocate i/by V. M. Doiphode & Co. for the Petitioners.

Mr. Rajesh More, APP for the State.

Mr. K. T. Kukreja, Advocate i/by Shri Devang H. Shah for the Respondent Nos. 2 and 3.

CORAM : M.L.TAHALIYANI,J.

DATE : 27th MARCH, 2015

P.C. :

1 Admit both the petitions. Heard finally.

2 The petitioners are accused in criminal case nos. 2544/SS/2009 and 2545/SS/2009 pending before the learned Metropolitan Magistrate, 20th Court, Mazgaon Mumbai and are facing trial for the offence punishable under section 138 of the Negotiable Instruments Act. Respondent No.2- Smt Divya Ramesh Sanghvi is the complainant in both the cases.

Evidence of respondent no.2 is over. Statements of the petitioners have been recorded. They have clearly stated that they did not want to examine any defence witness. After examination of the petitioners under section 313, they have made an application for recall of PW-1/ complainant. It is submitted by the learned counsel for the Petitioners that the petitioners wanted to bring on record certain invoices which would indicate that there was no legally enforceable liability for which the cheques could have been issued by the petitioners. During the course of the arguments it has transpired that there are two letters issued by the petitioners to the complainant under which the cheques were forwarded. It is evident from the letters that the cheques were forwarded for purchase of certain goods from the traders including Krishna Knitwear Technology Ltd.. As such name of Krishna Knitwear whose invoices were sought to be produced appear in the letters produced by the complainant. The petitioners had ample opportunity to cross-examine PW-1 in respect of the contents of those letters. Attempt to re-call PW-1 to produce invoices is nothing but an attempt to delay the trial of the cases. In my opinion, no purpose will be served by recalling PW-1 as the petitioners for the reasons best known to them did not go into the details of the transactions with the Krishna Knitwear, the bill dates and cheques numbers at the time of the cross-examination of PW-1. An application under section

311 has rightly been rejected by the learned Metropolitan Magistrate.

3 Both the petitions do not have any merit. They are dismissed. Ad-interim / interim orders, if any, stand vacated. Hearing of the both the cases before the trial court is expedited. Both the cases shall be disposed of within two months from the date of the receipt of this order.

(JUDGE)

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