

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1224 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 1225 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 1226 OF 2014

M/s. A. K. Mukherjee & Ors. .. Petitioners

Versus

M/s. Siosa Enterprises & Anr. .. Respondents

Ms. M. D. Bhambhwani, Advocate for the petitioners
Mr. A. V. Nikam, Advocate for the respondent No. 1.
Mr. V. B. Konde-Deshmukh, Advocate for the respondent-State.

CORAM:-M.L. TAHALIYANI, J.
DATED : -09/01/2015

P.C.

Admit. Respondents waive service. By consent of the parties heard finally.

2 Heard learned counsel for the petitioners, learned counsel for respondent No. 1 and learned Addl. PP for the respondent State.

3 The petitioners in all the three petitions are accused in three criminal cases being criminal case Nos. 58602/2005,

58603/2005 and 55589/2005 pending in the Court of Judicial Magistrate, First Class, Pune. The order impugned in the present petitions is common to all the criminal cases. The evidence of the respondent No. 1 was completed. The statements of the petitioners (accused) u/s 313 were recorded and recording of evidence of defence was in progress. Petitioner No. 1 Ashit Kumar Mukherjee was in the witness box as D.W. No. 1. His examination-in-chief was completed on 1st of October, 2010. However, the advocate for the respondent No. 1 was not present. Therefore, the learned Magistrate directed that the case should proceed without cross-examination of D.W. No. 1, Ashit Kumar Mukherjee. The respondent No. 1 appeared in the Court on next date of hearing and filed an application on 26th of October, 2010 for setting aside the order of '*no cross*'. The said application was allowed by order dated 16th of November, 2013. The order of '*no cross*' was set aside. The petitioners have impugned this order of the Magistrate, setting aside '*no cross*' order.

4 I have heard learned counsel for both the parties.

5 In my opinion, the order of '*no cross*' could not have

served the purpose of just and fair trial. On the contrary such capricious order could have created problem at appellate stage, if the appeal is filed by either of the parties. The learned Magistrate rightly has set aside his own order and has permitted the respondent No. 1 to cross-examine the D.W. No. 1. I do not find any infirmity in the order. The petitions are devoid of any merit and need to be dismissed.

6 All the petitions are dismissed.

7 The learned Magistrate shall try the cases as expeditiously as possible and shall conclude the same within a period of three months from the date of receipt of this order.

(JUDGE)

md.saleem