

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

CRI. WRIT PETITION NO. 1396 OF 2015

Mr. Ganesh Nagi Reddy ... Petitioner.

V/s.

State of Maharashtra & Anr. ... Respondents.

WITH

CRI. WRIT PETITION NO. 1397 OF 2015

Mr. Ganesh Nagi Reddy ... Petitioner.

V/s.

State of Maharashtra & Anr. ... Respondents.

Mr. M. V. Vishwakarma, Advocate for the Petitioner.

Mr. A. R. Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 07th APRIL, 2015

P.C. :

1 Not on board. Mentioned. Taken on production board.

2 By consent, heard finally at the admission stage.

3 The petitioner/applicant in both the petitions is facing trial for the offence punishable under section 138 of the

Negotiable Instruments Act at the instance of respondent no.2. Respondent No.2 in writ petition no. 1396 of 2015 is the wife of respondent no.2 in writ petition no. 1397 of 2015. Evidence of the witnesses of respondent no.2 in both the cases is over. Statements of the petitioner/applicant under section 313 of the Cr.P.C. in both the cases have been recorded. The petitioner had applied for recall of PW-1/ Complainant which prayer has been rejected by the learned trial Magistrate. It is how the applicant/petitioner is before this court in both the petitions.

4 I have gone through both the impugned orders and I do not find any fault with the orders passed by the learned Magistrate. Sufficient opportunity was given to the petitioner to cross-examine PW-1. The petitioner has now changed the lawyer in the trial court. Change of the lawyer cannot be a reason for recall of the witness.

5 It is submitted by the learned counsel for the petitioner that the petitioner needed to put up his case before the learned Magistrate. In my opinion, it would have been just and proper had the petitioner applied for examining himself as defence witness instead of calling PW-1 for cross-examination. As far as the cross-examination of PW-1 by the petitioner is concerned, as stated earlier, the change of lawyer cannot be a reason for recall of the witness.

6 Both the petitions are therefore, summarily dismissed. However, the petitioner is given liberty to move the trial Magistrate for examining himself as defence witness in both the cases. The trial Magistrate shall consider the application and decide the same in accordance with law.

7 Both the petitions stands disposed of accordingly.

(JUDGE)

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