

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

CRIMINAL APPLICATION NO. 558 OF 2015

M/s. Mirc Electronics Ltd.. ... Applicant.

V/s.

M/s. Electro Engineers & Others ... Respondents.

Mr. Bhavesh Thakur, Advocate i/by Rahul Arote for the Applicant.

Smt. A. A. Mane, APP for the State.

Mr. Kapil P. Wave, Advocate for Respondent No.2.

CORAM : M.L.TAHALIYANI,J.

DATE : 31st JULY, 2015

P.C. :

1 Admit. Heard finally.

2 Heard the learned counsel for the applicant, learned advocate for respondent no.2 and learned additional public prosecutor for the State.

3 The applicant is aggrieved by the order of the learned Magistrate, rejecting his prayer for summoning the bank officer as witness. The applicant is complainant in a complaint case filed under section 138 of the Negotiable Instruments Act. The complainant wanted to examine the bank officers to establish that there were earlier transactions between the applicant/complainant and respondent no.1/accused.

4 The learned counsel for the applicant has submitted before me that the attempts made by the applicant to get certified copies of the bank statement under the Bankers Book Evidence Act are without any result and therefore, the applicant was compelled to move the court for summoning the witness. The trial court has rejected the prayer.

5 In my view no prejudice would have been caused to the respondent no.1-accused, had the witness been called. So far as the reasons given by the learned Magistrate that the proceedings are being delayed unnecessarily is concerned, it may be stated here that the proceedings are delayed because of the arbitrary orders passed by the learned Magistrate. Had he granted the prayer, the trial, in my opinion, would have been over long-back.

6 In view thereof, the order passed by the Magistrate, rejecting the application of the applicant for issuing the summons to bank officers is set aside.

7 The officer from the bank mentioned by the applicant shall be called alongwith the relevant documents and he shall be allowed to be examined by the applicant.

8 The present application stands disposed of in the above terms.

(JUDGE)