

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

CRIMINAL APPLICATION NO.854 OF 2015

Glory Polyfilms Ltd. & Anr.

...Applicants

Versus

M/s. Ashoka Buildcon Ltd. & Anr.

...Respondents.

.....

Mr. Manohar H. Ramsinghani i/b. M/s. J. Nishar & Co. for the Applicants.

Mr. R.S. Apte, i/b. Mr. A.A. Gaikwad for the Respondent No.1.

Mr. J.H. Ramugade, APP for the Respondent No.2- State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 29th OCTOBER, 2015.

P. C. :

Rule. By consent of the parties rule made returnable forthwith.

2. By this application, the Applicant has sought to quash and set aside the order dated 24th July, 2013 and 9th June, 2015 whereby the cross-examination of the Applicant was closed by the learned Magistrate.

3. The Applicant herein is facing trial in C.C. No.2745 of 2010 for the offence punishable under section 138 of the Negotiable

Instruments Act. Records reveal that the complainant has filed affidavit of evidence on 29th December, 2011 and again on 20th June, 2012. Records further reveal that case has been adjourned time and again as the accused was either absent or had sought adjournment. Perusal of the Roznama as well as the application filed by the Complainant reveals that the Applicants -accused has only been trying to delay and protract the trial. The conduct of the Applicants-accused certainly cannot be condoned. However, in the interest of justice, in my view, an opportunity has to be given to the Applicants to cross-examine the witness. Under the circumstances, the application is allowed subject to the Applicants pay cost of Rs.40,000/- to the Respondent No.1 within 15 days from the date of this order. Cost is condition precedent.

4. Both the parties are directed to appear before the Trial Court on **16.11.2015 at 11.00 a.m.**

5. The learned Trial Judge is directed to dispose of the said case as expeditiously as possible, in any case, within a period of six months from 16th November, 2015.

(ANUJA PRABHUDESSAI, J.)