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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 204 OF 2015

M/s Vishnu Lamination Pvt. Ltd. ..PETITIONER

VERSUS

M/s Crompton Greaves Ltd & anr. ..RESPONDENTS

Mr R. S. Kasar, Advocate for petitioner;
Mr A. R. Kale, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 28th April, 2016

ORAL ORDER :

This petition is by the accused, a Private Ltd. Co., in proceedings under Section 138 of Negotiable Instruments Act, in which, after recording of the statement under Section 313 of the Code of Criminal Procedure, an application came to be moved for summoning the officer, which came to be rejected by an order passed by the learned 9th Judicial Magistrate First Class, Ahmednagar, by an order dated 1st April, 2014, passed below Exh. 143, which was confirmed in Criminal Revision No. 70 of 2014, by the learned Additional Sessions Judge, Ahmednagar, by an order dated 13th January, 2015.

2. Learned Counsel appearing on behalf of the petitioner would strenuously urge that, in view of answer to question No. 12, given by the petitioner-accused, while recording statement under Section 313 of the Code of Criminal Procedure, it is necessary to examine the said witness and the Court has committed an error by rejecting the application, which

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amounts to denial of opportunity of fair trial to the petitioner.

3. Learned Counsel appearing on behalf of respondent No. 1/ complainant would invite my attention to the observations made by the learned Courts below, so as to submit that the complaint was initiated in 2009 and though witnesses were present, as is recorded by the learned Courts below, the petitioner had not chosen to cross-examine them.

4. I have perused both the orders in view of the observations made by the learned Magistrate in Para 4 of the order dated 1st April, 2014 and Para No. 8 of the order dated 13th January, 2015, passed by the learned Sessions Judge. What is to be inferred is that, it is an attempt on the part of petitioner to protract the proceedings. It is then required to be noted that though the petitioner was given opportunity, it had not availed on earlier occasion. The earlier order in favour of the petitioner to cross examine the said witnesses was subject matter of challenge before this Court in writ petition, which was withdrawn by the respondent-complainant, still petitioner-accused has not cross examined the said witnesses since 2012.

5. In this view of the matter and having regard to the conduct of the petitioner noted hereinabove, in my opinion, no case for interference in extra-ordinary jurisdiction is made out. Writ Petition fails and stands dismissed.

(N.W. SAMBRE, J.)

sjk