

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.16 OF 2015

Ramesh Samrathmal Seth Vs. Avtar Singh Sachdev & Anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. Amit I Sheth for applicant.
Mr. B.R. Pawar i/b J.R. Vakil & Associates for respondent No.1.
Ms. M.R. Tidke, APP for State.

CORAM : A.S. GADKARI, J.
DATE : 4th July 2016.

P.C.:

- 1) By the present application under Section 482 of Cr. P.C., the applicant who is the original accused in CC No.405/SS/2011 has questioned the correctness of the Order dated 3.7.2014 passed by the learned Metropolitan Magistrate, 58th Court, Bandra, Mumbai rejecting his application dated 4.2.2014 for recalling the complainant for further cross examination.
- 2) Heard the learned counsel for the applicant and the learned counsel for the respondent No.1.
- 3) The record discloses that in the present case the complaint under Section 138 of the Negotiable Instruments Act is filed by the respondent No.1 on 1.3.2011. The affidavit in lieu of examination-in-chief is filed in the month of April 2012. After the affidavit in lieu of examination-in-chief is filed, the

applicant herein who is the original accused cross-examined the complainant and after completion of recording of evidence on 10.1.2013 the statement of the applicant as contemplated under Section 313 of Cr. P.C. was recorded. The record further discloses that as a matter of fact, the applicant has also examined the defence witness in support of his case. Subsequent thereto, the applicant filed an application under Section 311 of Cr. P.C. on 4.2.2014 for recalling the complainant for further cross-examination. The Trial Court by the impugned Order dated 3.7.2014 has rejected the said application.

4) It is to be noted here that the applicant herein has already availed the opportunity to cross-examine the complainant at length. It further appears to me that when the applicant herein realised that there are certain lacunas which are detrimental to his interest, he has filed the application under Section 311 of Cr. P.C.. In my view this is nothing but dilatory tactics adopted by the applicant to procrastinate the litigation.

5) In the premise and in view of the facts of this case, I am of the view that the Order passed by the Trial Court is just and proper Order and requires no interference by this Court. The application being devoid of merits is accordingly dismissed.

6) As the respondent No.1 has filed complainant on 1.3.2011 and since then it is pending for final adjudication, the learned Metropolitan Magistrate, 58th Court, Bandra, Mumbai is hereby directed to make an endeavour to complete the trial of CC No.405/SS/2011 by 31st December 2016.

(A.S. GADKARI, J.)