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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 319 OF 2018**

Bharatkumar Premji Thakkar

.....Petitioner

V/s.

1. Ravi Agencies
2. Prakash Ramji Thakkar
3. The State of Maharashtra

.....Respondents

Mr. Rajendra Sorankar for the petitioner.

Mrs. M. R. Tidke APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 15, 2018.

P.C.

The petitioner-original complainant filed complaint under section 138 r/w 141 of the Negotiable Instruments Act, 1881 before 27th Court of Metropolitan Magistrate at Mulund which is numbered as criminal complaint no. 136/SS/2009. In June 2014, petitioner has filed an affidavit in examination-in-chief. The trial court started recording cross-examination of the petitioner-complainant on 28/09/2016 and it is alleged that respondent-accused for one or other reason are protracting the trial thereby defeating the purpose of speedy justice.

2 The learned counsel for respondent nos. 3, 4 & 6 submits that it was never the intention of the respondents to delay the trial and in fact they are very much co-operating the court of learned Magistrate.

3 Having considered rival submissions it reflects from the record, particularly rozanama of the Court of the learned Magistrate, that the petitioner complainant filed Exhibit C-7 evidence affidavit in June 2016. Thereafter the cross-examination of the complainant commenced on 28/09/2016 and the fact remains that till this date, cross-examination of the complainant is not concluded by respondent-accused.

4 Considering aforesaid conduct and having regard to the provisions of section 143 of the Negotiable Instruments Act, 1881, litigation policy and Judgment of the Apex Court in the case of **Indian Bank Association and others V/s. Union of India and others**¹ particularly observation made in para 23.5 which reads thus:

1 [(2014) 5 Supreme Court Cases 590]

“23.5 *The court concerned must ensure that examination-in-chief, cross-examination and re-examination of the complainant must be conducted within three months of assigning the case. The court has option of accepting affidavits of the witnesses instead of examining them in the court. The witnesses to the complaint and the accused must be available for cross-examination as and when there is direction to this effect by the court”.*

It will be appropriate, in my opinion to dispose of the petition with following order.

- (i) Hearing of the complaints before the learned Magistrate is expedited in terms of prayer clause (A) with clarification that the complaints be decided within period of 9 months from the date of production of this order by the learned Metropolitan Magistrate.
- (ii) Such party who fail to co-operate with the learned Magistrate in expeditious disposal of the complaints as ordered by this Court shall be liable for cost in the discretion of the Magistrate. The Magistrate will also be at liberty to pass such other order so as to comply with the aforesaid directions issued by this Court.

5 The present writ petition as such, stands disposed of in the
above terms.

6 It is clarified that this Court has not gone into the merits of the
matter.

[NITIN W. SAMBRE, J.]