

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

**CRIMINAL WRIT PETITION NO.3696 OF 2018  
with  
CRIMINAL WRIT PETITION NO.3697 OF 2018**

M/s.Pawar Electro Systems Pvt. Ltd. & anr. ... Petitioners

Vs.

M/s.Green Channel Financial Consultancy Ltd. ... Respondents  
& anr.

Mr.R.R. Sonawane for the Petitioners

Mr.Aniket Gawand with Rohini Sarte for the Respondent No.1  
Mr.Yogesh Dabke for Respondent No.2 / State

**CORAM: Mrs.MRIDULA BHATKAR, J.**

**DATED: NOVEMBER 21, 2018**

**P.C.:**

1. In these two Writ Petitions, the orders dated 3.9.2016 and 3.7.2017 passed by the learned Metropolitan Magistrate, Dadar, Mumbai in C.C. Nos.654/SS/2015 and 655/SS/2015, are challenged. The petitioner is the original accused facing prosecution under section 138 of the Negotiable Instruments Act. The evidence of the complainant was filed on affidavit on 4.5.2016 in both the cases. The matter was thereafter adjourned to

9.5.2016. However, none remained present and so, the matter was fixed for cross-examination of the complainant by the petitioner on 7.6.2016. On that day, the documents were exhibited. Thereafter, the matter was again postponed to 18.7.2016 for cross-examination. No cross was taken on that day by the advocate for the petitioner and so, both the matters were adjourned to 3.9.2016. On that day also, no cross-examination of the complainant was conducted and, therefore, the learned Metropolitan Magistrate has passed the order of 'no cross' against the petitioner/accused. Hence, this petition is filed.

2. The learned Counsel for the petitioner submits that the petitioner has good case on merits and it be given opportunity to cross-examine the complainant as the stakes in the matter are high. He further submits that till today, there is no progress in the matter and the petitioner will adhere to the time-bound programme of the case, if given by this Court.

3. The learned Counsel for the respondent/company opposes these applications, however, submits that if the cases are made time-bound, the complainant will remain present for cross-examination.

4. Considered the submissions. The orders dated 3.9.2016 and 3.7.2017 passed by the learned Metropolitan Magistrate, Dadar, Mumbai in C.C. Nos.654/SS/2015 and 655/SS/2015, are hereby set aside on condition that the petitioner company pays overall costs of Rs.25,000/- jointly in both the matters to the complainant on or before 29.11.2018. The parties shall appear before the learned Metropolitan Magistrate on 29.11.2018 at 11am. The trial Court may keep the matter on any date for cross-examination. The petitioner shall not ask for any adjournment for cross-examination of the complainant and for any other purpose. If the costs, as stipulated above, are not paid, this order of setting aside the impugned orders will go forthwith and the trial Court shall proceed accordingly. The trial Court to proceed with the matter and conclude both the matters on or before 30.1.2019.

5. Both the Writ Petitions are disposed of accordingly.

**(MRIDULA BHATKAR, J.)**