

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

CRIMINAL WRIT PETITION NO. 423 OF 2019

M/s. Evisipro Solutions Pvt. Ltd.

...Petitioner

Versus

Rajiv Vasant Sathe and Anr.

...Respondents

Mr. M.V. Rawool for Petitioner.

Mr. Rajiv V. Sathe-Respondent No. 1 in Person.

Mr. A.R. Patil, APP for Respondent – State.

CORAM : S.S. SHINDE, J.

DATE : 23rd SEPTEMBER 2019

PER COURT:

1. Heard learned counsel appearing for the Petitioner and learned counsel appearing for Respondent No. 1 who appears in person.

2. Being aggrieved by the order dated 02.01.2019 passed by learned Metropolitan Magistrate 33rd Court Ballard Pier, Mumbai, the present petition is filed.

3. It appears from the perusal of impugned order that, the Advocate for the Petitioner was not ready to take cross examination of the complainant i.e. Respondent No. 1 herein. The learned Judge has observed that, in fact 02.01.2019 was the date taken by the choice of Advocate, in

spite of it, the Advocate was not ready to conduct further cross examination of Respondent No. 1.

4. By any stretch of imagination, such conduct of the Petitioner cannot be countenanced. When the date was fixed for cross examination, the learned Advocate was bound to conduct the cross examination of the complainant. Be that as it may, due to mistake of Advocate the litigant should not suffer, hence this Court is inclined to give one more opportunity to the learned counsel for the Petitioner to cross examine the complainant. Hence, following order is being passed to meet the ends of justice:-

ORDER

(i) The impugned order dated 02.01.2019 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, to the extent of denying further opportunity to the Petitioner to cross examine Respondent No. 1 is quashed and set aside.

(ii) Advocate appearing for the Petitioner shall proceed to cross examine Respondent No. 1 on 02.11.2019 and shall not ask for further adjournment, however, subject to paying Rs. 25,000/- (in words Rupees Twenty Five Thousand only) towards cost to

Respondent No. 1 within three weeks from today.

(iii) The said amount can directly be deposited in the bank account of Respondent No. 1.

(iv) In case of breach of direction contained in Clause (ii) and (iii), the impugned order in this petition shall get automatically reviewed, and consequently the Petitioner will not be entitled to cross examine Respondent No. 1.

(v) With the above observations, writ petition stands disposed of.

[S.S. SHINDE, J.]