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

**WRIT PETITION NO.616 OF 2019
WITH
WRIT PETITION NO.617 OF 2019
WITH
WRIT PETITION NO.618 OF 2019**

Durgadas Tukaram Erkal ... Petitioner.

V/s.

Girish Rajan Khandare and anr ... Respondents

Mr. Satyavrat Joshi, for the Petitioner.

Mr. A. R. Patil, APP for respondent

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 8th FEBRUARY, 2019.

P.C. :

1] Heard learned counsel for the petitioner and learned APP
for the State.

2] With the consent of learned counsel for both the parties,
these petitions are taken up for final hearing at the stage of admission
itself.

3] By these petitions filed under Article 227 of the
Constitution of India, the petitioner challenges identical orders dated

31.10.2018, passed by Judicial Magistrate First Class, Jaysingpur, District: Kolhapur, in three different Summary Criminal Cases pending against him.

4] In those three cases the petitioner is facing charges and trial under Section 138 of the Negotiable Instrument Act, for dishonour of cheques.

5] Trial in all above cases has begun. The complainant has filed his affidavit in lieu-of-examination in chief on 16.02.2016. No cross examination was conducted by the accused though the matter was adjourned on number of dates. There was change of the advocate of the petitioner and adjournments were sought and time was granted. Thereafter complainant's two witnesses were examined, again time was given for the cross examination, on imposing costs. But he did not conduct cross examination. Thereafter third witness was also examined and no cross examination was conducted, though cost was imposed.

6] When the matter was fixed for recording of statement of the accused-petitioner under Section 313 of the Code of Criminal Procedure, the petitioner moved application for cross examination which was rejected by the learned Judicial Magistrate First Class, Jaysingpur, by order dated 31.10.2018., against which Revision Applications were preferred and learned Additional Sessions Judge,

by its orders dated 22.01.2019, dismissed those Revision Applications, on the ground that the order under challenge was interlocutory and not maintainable. Hence these writ petitions.

7] Learned counsel Mr. Joshi, appearing on behalf of petitioner accused, submits at the outset that the petitioner is at fault for not conducting cross examination and, therefore, the petitioner be given last opportunity to cross examine the complainant and his witnesses in all these matters. In support of his submissions, he relied upon the judgment of this Court in the case of **Atul Ganeshrao Choudhari -vs- The State of Maharashtra [2013 ALL MR (Cri.)1736]**, another judgment of this Court in the case of **Ramesh Vishwanath Lonkar -vs- Ramesh s/o Shriram Motghare 2014 ALL MR (Cri) 487**, and judgment of the Hon'ble Supreme Court, in the case of **Sanjeeva Rao -vs- State of Andhra Pradesh [(2012) 7 SCC 56]**.

8] Learned APP submits to the orders of the Court.

9] I perused the order dated 31.10.2018, passed by learned J.M.F.C., Jaisingpur. The learned Judge has taken pains to give all the details of Roznama and progress of the trial. The ratio in the cases cited by learned counsel for the petitioner is different than the facts of the present case. Here, three witnesses are examined by the complainant and number of adjournments were given, orders of

payment of costs were passed. However, accused and his advocate did not bother to cross examine the complainant or the witnesses of the complainant. In view of this, I am not inclined to interfere with the orders passed by the learned Magistrate.

10] All the three Writ Petitions stand dismissed.

[MRS. MRIDULA BHATKAR, J.]