

b) The order dated 01.09.2018 passed by the learned Sessions Judge, Pune in Criminal Revision Application No. 120 of 2018 as well as Order dated 12.02.2018 passed by the Learned JMFC Cantonment, Pune below Exhibit 72 in SCC No. 1331 of 2016 be quashed and set aside.

2. The Petitioner herein is accused in SCC No. 1331 of 2016 filed by the first respondent. The first respondent filed an application under Section 311 of Code Criminal Procedure (for short 'Cr.PC'), for examination of witnesses Mr. Anuj Goyal. The said application was allowed and the Trial Court issued summons to complainant Mr. Anuj Goyal to appear before the Court for recording his evidence. Being aggrieved by the said order the present petitioner filed Criminal Revision No. 120 of 2018 however, the said revision was rejected. Hence, this writ petition.

3. Learned counsel appearing for petitioner submits that, first respondent had full knowledge of memorandum of understanding dated 3rd July 2013, which was executed between the original complainant Mr. Anuj Goyal and applicant Mr. Anil Chalke and others and cancellation deed dated 25th September 2013 between Mr. Anuj Goyal and applicant and others. The said verified copies of aforesaid documents are on the record of Trial Court right from the filing of the original complaint, but in spite of that till completion of cross examination of first respondent, he had not taken any steps as far as aforesaid documents are concerned. It is submitted that when the first respondent realized that the application is going to succeed in the proceedings, he deliberately and intentionally filed application under Section 311 of Cr.PC., just to harass the applicant. It is submitted that proceedings under Section 138 of Negotiable

Instruments Act (for short 'NI Act') are required to be completed as expeditiously as possible and within six months from institution of the proceedings under Section 138 of NI Act. In support of aforesaid contention learned counsel appearing for the petitioner placed reliance on ratio laid down in the case of Kavita Satish Agrawal Vs. Mahesh Nagari Sahkari Patsanstha Maryadit, Sangamner through its Recovery Officer reported in 2018 (1) Mh.L.J. (Cri) 318.

4. On the other hand learned counsel appearing for first respondent submits that in the interest of justice the Trial Court has passed the order and allowed the prayer of the first respondent to allow him to examine Mr. Anuj Goyal. No prejudice would be caused to the petitioner. Learned counsel invites attention of this Court to the reasons assigned in the impugned order and submits that petition may be rejected.

5. Upon appreciating rival contentions and the fact that, in the interest of justice the Trial Court has allowed the application of the first Respondent for recording statement of Mr. Anuj Goel, before the Trial Court no interference is necessary in the impugned order.

6. In the application filed by the first respondent under Section 311 of Cr.PC, it is stated that the recording of evidence of complainant through his constituted power of Attorney is completed on 11.07.2017. The memorandum of understanding dated 03.07.2013, which was executed between original complainant Annuj Goel and accused Anil Chalke and others, and subsequent cancellation deed dated 25th September 2013 between Mr. Annuj Goel and accused and others, the verified copies of the said documents are on the record of Trial Court filed by the complainant. However, the cheque which is subject matter of the complainant, was issued by the accused against his legal liability arising out of and in relation to the transaction in respect of which the said agreements were executed. The original complainant has executant of the said above mentioned agreements and therefore, said witness is material and recording of his evidence is important in the present case.

Therefore, as it is surfaced on record that the original complainant Mr. Anuj Goel representing Meenamani Ganga Builder LLP as a director is a material witness in the present case, as his evidence goes to the root of the case, and evidence of the said above mentioned witness will be important to decide the present case on merits. In the aforesaid background the application was filed under section 311 Cr.PC and same has been allowed by the Trial Court. The aforesaid reasons for filing the application goes to the root of the matter and in

absence of examination of said Mr. Annuj Goel it may not be possible for the complainant to prove its case. In that view of the matter the view taken by the Trial Court is plausible, reasonable and keeping in view the material placed on record. Therefore, no interference is called for in the impugned order. Hence, writ petition stands rejected.

[S.S. SHINDE, J.]