

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.803 OF 2021

Vinayak Sahebrao Mane,
Aged about 43 years,
Occupation: Agriculturist,
R/o Chatari, Tq. Umarkhed,
Dist. Yavatmal. **APPLICANT**

...V E R S U S...

The Buldhana Co-operative Credit
Society Limited, Buldhana through
its Manager, Office at Umarkhed,
Tq. Umarkhed, Dist. Yavatmal. **NON-APPLICANT**

Mr. V.R. Thote, Advocate for Applicant.
Mr. A.J. Bhoot, Advocate for Non-Applicant.

CORAM: **ROHIT B. DEO, J.**
DATE: **31st AUGUST, 2021.**

ORAL JUDGMENT:

Heard Mr. V.R. Thote, the learned counsel for the
applicant and Mr. A.J. Bhoot, the learned counsel for the
non-applicant.

2. The accused in proceedings instituted under section
138 of the Negotiable Instruments Act, 1881 (N.I. Act) is

challenging an order dated 21.09.2019 rendered by the Judicial Magistrate First Class, Umarkhed whereby the application preferred by the accused seeking setting aside of “no cross” order, is rejected.

3. The accused approached the learned Sessions Judge in revision, which is rejected, as not maintainable.

4. I have perused the reasons recorded, and I have no hesitation in holding that the learned Magistrate did not commit any error as such, from a legalistic perspective, in passing the “no cross order”. Ultimately, there is some limit to liberal indulgence and the learned Magistrate did give several opportunities to the accused to participate in the proceedings.

5. However, the learned counsel for the accused states that since the issue is of liberty, a final opportunity be granted to cross-examine the complainant. A further undertaking is given that the applicant shall, before availing the opportunity to cross-examine, deposit in the court amount of Rs.5,00,000/- (Rupees Five Lakh only).

6. After the order impugned came to be passed, the trial has progressed, the statement of the accused is recorded under section 313 of the Criminal Procedure Code, 1973 (Code) and the counsel for the complainant has also advanced final submissions. However, in view of the submission that one final opportunity be granted, and the undertaking to deposit Rs.5,00,000/-, I am inclined to grant one opportunity to the accused to cross-examine the complainant.

7. The order impugned is quashed.

8. It is stated that the matter is now fixed on 04.09.2021. The accused shall start with the cross-examination of the complainant and conclude the same positively in the first session. In the next session the defence witness, if any, be examined and the recording of the statements, the arguments and the judgment shall be concluded in the next seven days.

9. This application is disposed of in the aforesaid terms.

10. Needless to record, if the amount of Rs.5,00,000/- is

not deposited, the accused shall forfeit the indulgence shown and the learned Magistrate shall proceed to render the judgment.

JUDGE

NSN