

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

CRIMINAL WRIT PETITION NO. 466/2022

Nidhi Traders, through its proprietor
Smt. Nikita Waman Bhoyar, aged
45 years, Occ. Private, office at 10,
Larokar Layout, Manewada road, South
Point School 3, Nagpur-27.

... **PETITIONER**
(Original Petitioner)

VERSUS

Nihar Steels Pvt Ltd., Nagpur
bearing registration No.
U27100MH2006 PTC 15 9816,
Office at 563, B/44, Tikekar
road, Dhantoli, Nagpur through
its Director Shri Pankaj S/o
Maheshji Rathi, aged about 52
years, Occ. Service, having
registered office at "Mangalam"
225, Hill Road, Shivaji Nagar,
Nagpur.

... **RESPONDENT**
(Original Respondent)

Mr. K. D. Shukla, Advocate for petitioner.
Mr. P. R. Agrawal, Advocate for respondent-sole.

CORAM : **VINAY JOSHI, J.**
DATE OF JUDGMENT : **16.09.2022.**

ORAL JUDGMENT :

RULE. Rule is made returnable forthwith.

2. Heard finally by consent of respective parties.

3. The petitioner who is an accused in SCC No. 5152/2013 has challenged two orders of the Magistrate, whereby petitioner was declined to conduct cross-examination of complainant in case relating to Section 138 of the Negotiable Instruments Act ('N.I. Act'). The learned Magistrate has declined to cross-examine since no cross order was passed long back, and the petitioner has not exercised his right within reasonable period.

4. The learned counsel appearing for the petitioner has submitted that the same complainant has filed two separate complaints under Section 138 of the N. I. Act i.e. one against the petitioner-wife and another against her husband. Both cases run parallel and in another case, cross-examination was conducted and therefore, in existing case, he has not proceeded. Though other side has objected, however it would be deprivation of fair trial, if the accused is not allowed to cross-examine the complainant. In criminal case, right of cross-examination carries importance as probably i.e. major source for the accused to put his defence and to impeach the credit of other side.

5. In view of above, petition is allowed. Impugned orders are set aside. The petitioner (accused) is permitted to cross-examine the complainant. Provided the petitioner shall commence the cross-examination on the date which shall be fixed by the Magistrate on 17.09.2022, failing which, his right to cross-examine stands forfeited.
6. Petition stands disposed of in above terms.

(VINAY JOSHI, J.)

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