

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

**CRIMINAL APPLICATION (APL) NO. 1081 OF 2022**

Amandeep Singh Surendra Singh Chawla .VS. Shriram Transport Finance Co. Ltd. Nagpur

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions Court's or Judge's orders.  
and Registrar's Orders.

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Mr R. S. Renu, Advocate for the applicant  
Mr V. J. Dharkar, Advocate for the respondent

**CORAM : G.A. SANAP, J.**  
**DATE : NOVEMBER 29, 2022.**

Heard the learned Advocate for the applicant and  
the learned Advocate for the respondent.

2. In this application, the challenge is to the order dated 06.07.2022, passed by the learned Additional Chief Judicial Magistrate, Special Court under Section 138 of the Negotiable Instrument Act, Nagpur, whereby the learned Additional Chief Judicial Magistrate was pleased to reject the application made by the accused/applicant for issuing summons to the two witnesses named in the application Exh. 76.

3. It is to be noted that on the date of this application the right to examine the defence witness was subsisting. The only question was whether the accused should bring the witness or witnesses should be summoned through the Court.

In the application and particularly in para No. 3 the reasons have been stated for making the prayer for issuance of summons to the witnesses. It can be seen on perusal of para No. 3 of the application that the accused had apprehension that the defence witnesses may not turn up for leading evidence at his request. It is to be noted that the accused has right to apply before the Court for issuance of summons to the witness. It is therefore, seen that the prayer made was according to law. Perusal of the order would show that the learned Magistrate has made certain observations which may not be relevant for the decision of the application and rejected the application.

4. In my view, the accused/applicant cannot be denied the right to examine the defence witnesses. The reasons recorded are not justifiable to deny the right. Therefore, the order cannot be sustained. The order by applying any standard cannot be said to be in accordance with law.

5. The application is, therefore, allowed. The impugned order dated 06.07.2022 passed by the learned Additional Chief Judicial Magistrate is set aside. The application at Exh. 76 is allowed.

6. In order to care of the grievance made about the

delaying tactics adopted by the accused, specific directions needs to be issued. I am informed that now the complaint is listed on 14.12.2022. The learned Magistrate shall issue the summons to the two witnesses named in Exh. 76 and see that both the witnesses are summoned and their presence is secured through the police. The evidence of two witnesses shall be recorded on the next coming date i.e. on 14.12.2022, without granting any adjournment. The learned Advocate for the accused submits that the accused would not examine himself as defence witness. In my view, the exercise undertaken in this manner would save time and safeguard the interest of the complainant.

7           The application stands **disposed of**, accordingly.

(G. A. SANAP, J.)

*Namrata*