

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

**CRIMINAL APPLICATION NO.1076 OF 2023**

Annasaheb Sukhdeo Maske

...Applicant

Versus

Shashikant Dnyaneshwar Potdar & Anr

...Respondents

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Mr. Varun Veepin Thokal, Advocate for Applicant.

Ms. Manisha Devkar, Advocate for Respondent No.1.

Mr. A.R. Patil, APP for State/Respondent No.2.

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**CORAM : SARANG V. KOTWAL, J.**

**DATE : 10<sup>th</sup> OCTOBER 2023**

**PC :**

1. The Applicant is the original Accused in STC No.402/2013 before the Judicial Magistrate First Class, Pandharpur. The Applicant has challenged the order passed below Exhibit-151 by the trial Court on 14<sup>th</sup> July 2023. By the impugned order, the prayer for setting aside “evidence close order” passed on 17<sup>th</sup> January 2023, was rejected.

2. The Applicant is facing charges under Section 138 of the Negotiable Instruments Act, 1881 for dishonour of two cheques for Rs.4,50,000/- and Rs.30,000/-. The trial is pending since 2013.

The complainant led his evidence. However, the record shows that the Applicant had not been diligent enough to lead his evidence. The trial Court passed an order on 17<sup>th</sup> January 2023, directing closure of evidence on behalf of the defence witness. The Applicant preferred an Application below Exhibit-151 for setting aside that order. The said Application was rejected.

3. The learned Magistrate has given reason why the Application was rejected. As noted in the order dated 6<sup>th</sup> September 2023, no fault can be found with the reasoning of the learned Magistrate. However, on the last occasion, I had directed the Applicant to pay cost of Rs.50,000/-. He has paid that cost and the Respondent No.1-original complainant had withdrawn that cost from the Court. Therefore, in the interest of justice, the Applicant can be given permission to lead his evidence provided that, the evidence is led expeditiously and there is no further unnecessary delay caused by the Applicant.

4. Learned Counsel for the Applicant states on instructions that the Applicant wants to examine four witnesses and that those

witnesses will be examined within a period of eight weeks from today. It will be his responsibility to keep them present. The statement is recorded and accepted.

5. Hence, the following order:

O R D E R

- i) The order dated 14<sup>th</sup> July 2023, passed by the Judicial Magistrate First Class, Pandharpur, below Exhibit-151 and the order dated 17<sup>th</sup> January 2023, directing the closing of the defence evidence, are set aside.
- ii) The Applicant is permitted to examine four witnesses. He shall give list of those witnesses to the other side and to the Court well in advance. He shall ensure that these witnesses are present before the trial Court for their examination and cross-examination. Their evidence will have to be recorded within a period of eight weeks from today. The trial is expedited.

iii) With these observations, the Application is disposed of.

**(SARANG V. KOTWAL, J.)**