

VRJ

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

CRIMINAL APPLICATION NO.172 OF 2023

C'square Basalt Mining Private Ltd. &
Ors. ... Applicants
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Vaibhav V. Ugle for the applicants.

Mr. M.G. Patil, APP for the respondent/State.

Mr. Jaimish Jain for the respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 6, 2023

P.C.:

1. By the impugned order learned Magistrate has rejected the application for recalling of no cross order. By the earlier order the learned Magistrate passed order of no cross against the applicant. On 21st January 2023, since the learned advocate for the accused and his junior was absent. The learned Magistrate rejected the application on the ground that the accused was not ready to conduct the cross-examination.

2. No fault can be found with the order of the learned Magistrate however in order to in the interest of justice, the accused needs to be given opportunity to conduct the cross-examination of the complainant. The learned advocate for the

accused, on instructions, states that 17th March 2023 is the next date fixed by the learned Magistrate. On the said date he will complete the cross-examination of the complainant. No adjournment shall be granted on 17th March 2023 to complete the cross-examination.

3. Considering the reasons for recalling of no cross order and the fact that on 21st January 2023 also the advocate was absent, the prejudice caused to the complainant needs to be compensation in terms of money. The applicant is, therefore, directed to pay cost of Rs.15,000/- to the complainant. Payment of cost shall be condition precedent before conducting the cross-examination. If the applicant fails to pay or deposit amount of Rs.15,000/- before the learned Magistrate before 17th March 2023, the order dated 21st January 2023 shall revive.

4. The criminal application stands disposed of. No costs.

(AMIT BORKAR, J.)