

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

CRIMINAL APPLICATION NO.1406 OF 2019

M/s Chirnarr Network Marketing India
LLP & Ors

..Applicants

Versus

Syncom Healthcare Ltd.

..Respondent

.....

- Mr. Shyam Dewani with Sumit khanna, i/b Dewani & Association, for the Applicants.
- Ms. Vijaya Mistry, for Respondent No.1.
- Mr. A.R. Patil, APP, for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JULY, 2023

P.C. :

1. The Applicant has challenged the order dated 13th September 2019 passed by the learned Metropolitan Magistrate 33rd Court, Ballard Peir, Mumbai below Exhibit 25 in C.C. No.2863/SS/2017. By the impugned order, the learned trial Judge, rejected the Applicant's application for recalling C.W. No.1 Sanjay Chouhan for further cross-examination to be conducted by the Applicant-Accused. The said application was made under Section 311 of the Cr.P.C. The trial arises out of the

proceeding under Section 138 of the Negotiable Instruments Act. The impugned order records the history as to how the matter is prolonged. After perusing the order, it does appear that the learned trial Magistrate had passed a well reasoned order.

2. Learned Counsel for the Respondent No.1 very fairly submitted before this Court that instead of objecting for grant of relief in this application, the Respondent No.1 will be more interested in getting the trial decided expeditiously and for that purpose the Respondent No.1 has no objection, if the present application before this Court is allowed.

3. The stand taken by the learned Counsel for the Respondent No.1 is very fair and reasonable. Therefore, strictly on the basis of this concession given by the Respondent No.1, I am inclined to allow this application with directions to the learned trial Court to complete the trial within a time bound manner. At the same time, the Applicant, is specifically directed to co-operate with the earlier disposal of the trial. Learned

Counsel for the Applicant undertakes to conduct the cross-examination of the recalled witness on that very date when the matter is fixed by the learned trial Judge.

4. Hence, the following order :

ORDER

- i) The order dated 13th September 2019 passed by the Metropolitan Magistrate 33rd Court, Ballard Peir, Mumbai, below Exhibit 25 in C.C. No.286/SS/2017 is set aside.
- ii) Learned Magistrate shall recall C.W. No.1 Sanjay Chouhan for further cross-examination to be conducted on behalf of the Accused.
- iii) The parties are at liberty to examine their respective witnesses at the proper stages of the trial.
- iv) The Applicant shall fully co-operate with the expeditious disposal of the trial and shall conduct the cross-examination on the date fixed for that

purpose by the learned trial Magistrate.

- v) Both the parties shall appear before the learned Magistrate on 15th July 2023, which is the next date before the trial Court.
- vi) On that date the learned trial Judge shall fix the date for cross-examination of C.W. No.1 Sanjay Chouhan. On the appointed date the Accused shall conduct cross-examination of that witnesses through his Counsel.
- vii) The learned trial Judge is requested to conclude the trial within a period of four months from today.
- viii) With these directions, the Application is disposed of.

(SARANG V. KOTWAL, J.)