



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 809 OF 2024

DHANANJAY NATHRAO MURKUTE
VERSUS
DATTATRAYA DIGAMBAR KENDRE

...

Advocate for the Petitioner : Mr. S. P. Kataneshwarkar
Advocate for Respondent : Mr. Ashish P. Deshmukh

...

CORAM : S. G. MEHARE, J.

DATE : 14-08-2024

PER COURT :-

1. Heard the learned counsels for the parties.
2. The petitioner has impugned the order of 'no cross' of the learned Judicial Magistrate First Class, Court No.3, Latur, passed below Exhibit-71 in S.C.C.No.411 of 2020, dated 05.03.2024.
3. The learned counsel for the petitioner/accused submits that there were reasons to not cross-examine the complainant/respondent. The petitioner has a good case on merits. Hence, the impugned order may be set aside.
4. Per contra, the learned counsel for the respondent states that earlier non-bailable warrant was issued against him and cost was imposed. He submits that the complainant has been running after the applicant since 2022. However, he is protracting the trial.

5. Perused the impugned order.

6. It appears the learned Magistrate ordered to proceed without cross examination because there was material to believe that the applicant was interesting in protracting the trial. The complainant was running pillar to post for the quick decision of the complaint under section 138 of the Negotiable Instruments Act. Therefore, a stringent view needs to be taken, and relief may be granted conditional that if he would not cross-examine the witness on the next date, he would be deprived from the right to cross-examine the witness. The application Exhibit-71 is allowed with cost of Rs.10,000/- which is already been deposited with the trial Court. The respondent/complainant is allowed to withdraw the said cost.

7. The petitioner/accused should cross-examine the witness i.e. complainant, on the fixed date before the learned Magistrate. If the petitioner/accused wants to lead evidence, he should lead the evidence and complete his defence evidence within a month from the date of closure of evidence of the complainant's side. If the petitioner would not produce the defence witnesses, if any, the matter would be proceeded ahead.

8. In above terms, the criminal writ petition stands disposed of.

(S. G. MEHARE)
JUDGE