

Esha

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.23 OF 2024

NISHIN ARYAMPRIIL

... PETITIONER

Versus

MUZAMMEEL SAUD SHAH AND ANR.

... RESPONDENTS

Mr. K. Poulekar, Advocate for the Petitioner.

Mr. Ravi Gawas, Advocate for Respondent No. 1.

Mr. Somnath Karpe, Additional Public Prosecutor for Respondent No. 2.

CORAM:- AVINASH G. GHAROTE, J.

DATED :- 18th March, 2024

P.C.

Mr. Poulekar, learned Counsel for the Petitioner, upon instructions, makes a statement that since time has been spent at the instance of the Petitioner, the same can be compensated with costs of Rs.25,000/- payable to Respondent No. 1/Complainant for the purpose of setting aside the impugned order and permitting the Petitioner to cross examine the Complainant. He further submits that though an Application in that regard may be sketchy, however, the written notes of arguments filed in support thereof disclose the grounds.

2. Learned Counsel for Respondent No. 1/Complainant basically had no objection to the cross examination, but is concerned about the

time spent by the Petitioner in delaying the proceedings.

3. Learned Additional Public Prosecutor for Respondent No. 2 supports the impugned order.

4. It cannot be disputed that the Application under Section 145 (2) of the N.I. Act should disclose reasons and a probable defence for the purpose of the Court for recalling the witness and permitting cross examination. Though the Application filed by the Petitioner is sketchy, however, the written notes of argument indicate a probable case of defence, regarding the extent and quantum of liability, for which, the cheque in question has been issued, considering which, in order to afford an opportunity, the impugned order is hereby quashed and set aside and the Application for recall and cross examination of the Complainant is hereby allowed, however, subject to costs of Rs.25,000/- to be paid by the Petitioner/Accused to Respondent No. 1/Complainant by 22.03.2024. The parties shall appear before the Trial Court on 01.04.2024, on which date, the cross examination of the Complainant shall be completed.

5. The Petition is accordingly disposed of in the aforesaid terms.

AVINASH G. GHAROTE, J.

ESHA SAINATH
VAIGANKAR

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