

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3008 OF 2023

Shailesh Rachh ...Petitioner
vs.
The State of Maharashtra and Another ...Respondents

Ms. Maya Majumdar, for the Petitioner
Mr. S.R. Agarkar, APP for the Respondent.
Mr. Sai Kadam a/w. Mr. Azhruddin Khan, for Respondent No. 2.

CORAM : N. J. JAMADAR, J.
DATE : JANUARY 25, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The principal challenge in this petition is to an order passed by the learned Metropolitan Magistrate in SCC No. 1968 of 2019 on 17th December, 2022 whereby the learned Metropolitan was persuaded to set aside the “no cross” order passed against the respondent/accused on 2nd July, 2022 subject to payment of costs of Rs. 1,000/- by the respondent/accused to the complainant /petitioner.
3. The learned counsel for the petitioner adverts to the past conduct of the accused and the tactics adopted to delay the disposal of SCC No. 1968 of 2019.
4. The learned counsel for respondent/accused submits that the respondent/accused would conclude the cross examination of the

complainant on the scheduled date i.e. 6th February, 2024 and will not seek any further adjournment.

5. Since the learned Magistrate has exercised the discretion to allow the respondent/accused to cross examine the complainant by setting aside the earlier order and the said order advances the cause of substantive justice, this Court does not find any justifiable reason to entertain this petition. However, since the material on record indicates that the trial in the SCC No. 1968 of 2019 is protracted, it may be appropriate to put the respondent/accused to terms.

6. The respondent/accused shall conclude the cross examination of the complainant on 6th February, 2024 and shall not seek any adjournment.

7. In the event the Court is not in a position to record the cross examination or for other cause of like nature, the matter stands adjourned, the respondent/accused shall conclude the cross examination on the adjourned date, in any event.

8. With the aforesaid direction, the petition stands disposed.

(N. J. JAMADAR, J.)