



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

63 CRIMINAL WRIT PETITION NO. 541 OF 2025

AMOL AMRUT MISAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

64 CRIMINAL WRIT PETITION NO. 546 OF 2025

AMOL AMRUT MISAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. I.D. Maniyar, Advocate for the petitioner.
Ms. Chaitali Choudhari Kutti, APP for the respondent-State.
Mr. A.L. Kanade, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATE : 24.07.2025

PC :-

01. Heard learned Advocates for the parties. Both the petitions are between the same parties. In similar set of facts, the petitioner is facing trial under section 138 of the Negotiable Instruments Act bearing SCC Nos. 536 of 2017 and 729 of 2017 in the Court of learned JMFC, Ambajogai. In both the cases, evidence affidavit of the complainant was filed on 18.07.2018. The matter was posted thereafter on many occasions; however, no cross-examination was conducted. On 28.03.2023, the learned JMFC passed orders of no-cross against the petitioner. The petitioner, therefore, filed an application for recall of the

said order. The Trial Court set aside the order of no-cross by recalling the order subject to costs of Rs. 800/-, however, still thereafter adjournments were sought. On 29.01.2024 the Trial Court imposed costs of Rs.500/- each. However, still no-cross was conducted. On 18.03.2024 again no-cross order came to be passed. Thereafter, the petitioner filed Revision Applications bearing Nos. 16 and 17 of 2024 in the Sessions Court. Learned Sessions Judge allowed both the revisions in the interest of justice by directing the petitioner to pay costs of Rs.5000/- within stipulated period. However, still the amount was not deposited within the stipulated period. Thus, the order dated 04.04.2025 passed by Additional Sessions Judge, Ambajogai is now under challenge.

02. This Court while issuing notice, directed the petitioner to deposit Rs.7500/- towards costs to be paid to respondent No.2 i.e. original complainant.

03. Learned Advocate for the petitioner vehemently argued that it is right of the accused to get fair trial. If the accused is not allowed to cross-examine the complainant, who happens to be material witness, the complainant's evidence will go unchallenged. He, thus, prays for allowing the petitions.

04. Learned Advocate Mr. Kanade by giving dates and events stated in the order, vehemently opposes the petitions. He submits that from the conduct of the petitioner, it is clear that he is deliberately prolonging the proceeding. He did not pay even costs in time, when it was directed to pay within stipulated period. He submits that the purpose of expeditious trial under section 138 of the NI Act is being frustrated because of this approach of the petitioner.

05. Heard learned Advocates for the parties. This Court finds that the conduct of the petitioner certainly needs to be deprecated. However, since the petitioner is an accused facing trial, this Court is inclined to allow the petitions. At the same time, the petitioner must feel pinch for his conduct in the Trial. The amount of cheques in both the cases is Rs.3,42,000/- and Rs. 9,00,000/-.

06. Thus, the no-cross order is hereby set aside subject to the petitioner depositing Rs.17,000/- [Rupees Seventeen Thousand] and Rs.30,000/- [Rupees Thirty Thousand] towards costs in W.P. No. 541 of 2025 and W.P. No. 546 of 2025 respectively, including costs already deposited while issuing notices in these petitions. The amount of costs already deposited in this Court is permitted to be withdrawn by the

respondent – original complainant. The remaining amount of costs to be paid by the petitioner to the respondent within four weeks from today before the Trial Court.

07. The criminal writ petitions are accordingly allowed and are disposed off.

[KISHORE C. SANT, J.]