



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

19 CRIMINAL WRIT PETITION NO. 1314 OF 2024

SALIM SHAH S/O AHMED SHAH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

AND

93 CRIMINAL WRIT PETITION NO. 1311 OF 2024

SALIM SHAH S/O AHMED SHAH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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94 CRIMINAL WRIT PETITION NO. 1312 OF 2024

SALIM SHAH S/O AHMED SHAH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. M.R. Wagh h/f

Mr. Shaikh Tousif Saifuddin

APP for Respondent No.1/State : Mrs. Chaitali Choudhari - Kutti

Advocate for Respondent No.2 : Mr. Shaikh Sohail Subhedar

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CORAM : SHAILESH P. BRAHME, J.

DATE : 17th MARCH 2025

PER COURT :

. These petitions can be disposed of by this common order.

2. The Petitioners are facing prosecution under Section 138 of the Negotiable Instruments Act, 1881 initiated at the instance of Respondent/Complainant which are pending before the learned Chief

Judicial Magistrate, Aurangabad in S.C.C. Nos.7567/2020; 7566/2020 and 7568/2020. The transaction between the parties was regarding purchase of goats. The cheques in question which are dishonored are of Rs.2,00,000/-; Rs.2,83,000/- and Rs.2,00,000/- in the respective proceedings.

3. The Complainant tendered affidavit in lieu of examination in chief and the Petitioners failed to cross-examine the Complainant. No cross order was passed which was set aside. Despite that no steps were taken by the Petitioners to cross-examine the Respondent/Complainant. On 16.09.2023, no cross order was passed. Petitioners submitted application to set aside 'no cross order' vide Applications at Exhibit-24; Exhibit-69 and Exhibit-53 in the respective proceedings. Those applications were rejected on 11.10.2023. Being aggrieved, distinct Revisions were filed which were also dismissed on 15.05.2024. Hence the Petitioners are before this Court.

4. It is desirable to extend one opportunity to the Petitioners to conduct cross-examination. Learned Counsel for the Petitioners undertakes that his client would not seek any adjournment and promptly conduct cross-examination of the Respondent/Complainant.

5. Learned Counsel for the Respondent submits that affidavit for examination in chief was filed way back in the year 2021.

Petitioners are protracting the proceedings. The proceedings are old one and are unable to be concluded.

6. Considering the submissions of the parties, I am of the considered view that the statement made by the learned Counsel for the Petitioners can be accepted. The proceedings were filed in 2020 and the Complainant has not been even cross-examined. The lapses on the part of the Petitioners are apparent. I deem it appropriate to quash the impugned orders and to extend one opportunity to the Petitioners to conduct cross-examination of the Complainant by imposing conditions. I, therefore, pass following order :

ORDER

- a) The judgment and order dated 15.05.2024 passed by the learned Sessions Judge, Aurangabad in Criminal Revision Application Nos.305/2023; 304/2023 and 306/2023 as well as orders dated 11.10.2023 below Exhibit-24 in SCC No.7567/2020; Exhibit-69 in SCC No.7566/2020 and Exhibit-53 in SCC No.7568/2020 are quashed and set aside subject to the payment of overall cost of Rs.25000/- by petitioners to the Respondent/Complainant within period of two weeks from today. It shall be condition precedent.
- b) The statement made by the Petitioners referred above shall be treated as an undertaking.
- c) The Petitioners shall make endeavour to conduct cross-examination within period of one month from today.

d) Writ Petitions are disposed of.

SHAILESH P BRAHME
JUDGE

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