



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1425 OF 2023

MOHAMMAD IQBAL MOHAMMAD RAMZAN

VERSUS

SANTARAM GOVIND GIRAM

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Advocate for the Petitioner : Mr. Mahesh S. Taur

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CORAM : SACHIN S. DESHMUKH, J.

Date : 7th November, 2025

ORDER :-

1. The petitioner has assailed the judgment and order dated 03.08.2023 rendered by the learned Additional Sessions Judge, Aurangabad in Criminal Revision Application No. 301 of 2022, confirming the order dated 07.10.2022 rendered by the learned Chief Judicial Magistrate, Aurangabad in Summary Criminal Case No. 7112 of 2019, rejecting the application presented by the petitioner seeking re-cross-examination of the complainant under Section 311 of Code of Criminal Procedure (henceforth "CrPC" for short).

2. The petitioner is facing the prosecution which is of the year 2019 under Section 138 of the Negotiable Instruments Act,

1881 (henceforth "N.I. Act" for short). The cross-examination of the complainant was conducted by the Counsel engaged by the petitioner on 19.01.2022. However, pursuant to change in Counsel, the application under Section 311 of CrPC was presented on 13.09.2022 seeking re-cross-examination of the complainant. The assertion was made in the application that erstwhile Counsel engaged by the petitioner did not conduct proper cross-examination of the complainant.

3. The learned Magistrate, while considering the application, found the reasons neither valid nor proper holding that the cross-examination of the complainant was already conducted in detail previously. Accordingly, the application was rejected.

4. Aggrieved by the same, the petitioner preferred the Criminal Revision Application before the learned Additional Sessions Judge, Aurangabad. The Revisional Court dismissed the revision as not maintainable on the ground that the order passed under Section 311 of CrPC is an interlocutory order and hence, no revision is maintainable in view of provisions of Section 397(2) of CrPC. In this backdrop, the petitioner has approached this Court under Article 227 of the Constitution of India.

5. It is the contention of the learned counsel for petitioner that since the previous Counsel engaged before the Trial Court did not conduct proper cross-examination of the complainant, it was necessary that the petitioner be permitted to re-cross-examine the complainant.

6. I have heard the learned counsel for petitioner and perused the entire record made available.

7. Admittedly, the complaint is of the year 2019. The record indicates that adequate and sufficient opportunity was extended to the petitioner to cross-examine the complainant. The application under Section 311 of CrPC, was presented only on vague assertion as against the previous Counsel engaged by the petitioner in Trial Court, did not conduct proper cross-examination of the complainant. No such specific ground is alluded on behalf of the petitioner which can be considered to be valid ground by the learned Magistrate to invoke the powers under Section 311 of CrPC.

8. Apparently, the attempt of the petitioner to re-cross-

examine the complainant is to fill up the lacuna. There is nothing on record to suggest that the further cross-examination is necessary to prevent prejudice to the petitioner. The powers under Section 311 of CrPC must be exercised by the Court in order to meet the ends of justice for strong and valid reasons and the same must be exercised with due care, caution and circumspection and only to secure the ends of justice when clear and sufficient reasons extends, admittedly those are absent.

9. Considering that an adequate opportunity has already been extended to the petitioner to cross-examine the complainant, no error is committed by the learned Courts below while rejecting the application presented by the petitioner.

10. Resultantly, I am of the considered view that impugned order does not warrant interference. The petition *sans* merit and is accordingly, **dismissed**.

(SACHIN S. DESHMUKH, J.)