



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.55/2025

VIJAYKUMAR MALPURE

... PETITIONER

Versus

NAVNEET NAIK

... RESPONDENT

Mr Abdul Razak Walikar, Advocate for the Petitioner.
Mr Deepak Gaonkar with Mr Akhil Govenkar and Mr Prasad Bhatlekar, Advocate for the Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 22nd AUGUST 2025

ORDER :

1. The Registry to waive objections and register the matter.
2. This is a petition throwing a challenge to order dated 08.08.2025, whereby the JMFC Pernem, in Criminal Case No.OA/50/2022, in which the petitioner is accused of committing offence under Section 138 of the Negotiable Instruments Act, has dismissed an application for recall of the complainant for cross-examination.
3. From the record it appears that based on an application under sub-section 2 of Section 145 of the Act, the petitioner was allowed to cross-examine the complainant. His defence, as stated in the application, was denial of execution of the cheque and

promissory note, hence denial of any consideration. The cross examination of the complainant was completed on 28.02.2025 and the evidence of the complainant was closed on that date. On two subsequent dates i.e. 10.03.2025 and 28.04.2025, the petitioner was not present for recording the statement under Section 313 of the Code of Criminal Procedure, which was ultimately recorded on 09.05.2025. In his statement, the petitioner stated that he wished to lead his own evidence and sought a longer date which was granted; the matter was then fixed on 07.07.2025, on which date the petitioner sought further time, the matter being adjourned to 23.07.2025, when he moved an application, purporting to be under Section 311 of the Code of Criminal Procedure, seeking recall of the complainant for further cross examination.

4. From a plain reading of the application, the same is vague and only states that the recall of the complainant was sought for further cross examination on the cheque and promissory note which have been produced in the complainant's evidence, and on which substantial cross-examination has been done on 28.02.2025. There is no averment made in the application or any detail of the nature of further cross-examination sought of the complainant. On this count alone, the application ought to have been dismissed.

5. Reading of the cross-examination of the complainant conducted by the petitioner on 28.02.2025 would also reveal that, even though the defence taken is of denial of execution of the cheque and promissory note, and denial of the signature of

the petitioner on these documents, claiming that the documents are forgery, there are no suggestions put to the complainant on these denials. The denials put in the cross-examination are vague and do not justify recall of the witness for any other purpose, since the cross-examination appears to be inconsistent with the defence taken. Filing of the application, considering that the complainant had completed his evidence and closed the same on 28.02.2025, for more than six months, appears to be a dilatory tactic and has been correctly dealt with by the Trial Court. Perusal of the Trial Court's order does not call for any interference, since the same is in consonance with the provisions of Section 311 of the Code of Criminal Procedure, as the impugned order shows that no case has been made out for recall of the complainant under Section 311 of the Code of Criminal Procedure.

6. Petition is dismissed. No cost.

VALMIKI MENEZES, J.