

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 1484 OF 2024

Nitin Shambhukumar Kasliwal & Ors	..Applicants
Versus	
State of Maharashtra & Anr	...Respondents

WITH
APPLICATION NO. 1481 OF 2024

Mr. Sundeep Karnik, with Darsh Gala, for the Applicants in both the Applications.
Mr. P. P. Malshe, APP, for Respondent-State.
Mr. Akhilesh Singh, with Jyoti Yadav, i/b Khaitan & Co, for Respondent No.2.

CORAM: N. J. JAMADAR, J.
DATE : 7th NOVEMBER 2025

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in these Applications is to an orders dated 30th July 2024 whereby Applications preferred by the Applicant-Accused to recall the Complainant (PW-1) for cross-examination came to be rejected.
3. The Applicants are being prosecuted for an offence punishable under Section 138 of the Negotiable Instruments Acts, 1881. The Complainant (PW-1) is under cross-examination. It is not disputed that

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in the past ‘no cross orders’ were passed against the Complainant and eventually the learned Sessions Judge by an order dated 26th August 2021 allowed Criminal Appeal No. 238 of 2021 and permitted the Applicants to cross-examine the Complainant on the condition that the Applicants shall not seek any adjournment and proceed with the matter. It seems that, even after the said order the Applicants have sought adjournments.

4. The learned Counsel for the Applicants submitted that the next scheduled date before the trial Court is 29th November 2025 and the Applicants would positively cross-examine the Complainant (PW-1) on that date and will not seek any adjournment.

5. The learned Counsel for the Respondent No.2 opposes the submission on behalf of the Applicants on the ground that for over four years the Complainant (PW-1) is under cross-examination and the Applicants have sought adjournments on one or the other pretext.

6. The material on record indicates that the Applicants have committed default in conducting the cross-examination of the Complainant (PW-1) diligently. Adjournments were sought on multiple counts. Yet, to advance the cause of substantive justice and provide one final opportunity to the Applicants to cross-examine the Complainant (PW-1), this Court considers it appropriate to quash and set aside the impugned orders and permit the Applicant-Accused to cross-examine

the Complainant (PW-1). However, having regard to the manner in which the trials have progressed, the Court considers it necessary to put the Applicants-Accused to terms.

7. Hence, the following order:

: O R D E R :

- (i) The Applications stand allowed.
- (ii) The impugned orders stand quashed and set aside, subject to the following conditions:
 - (a) The Applicants shall cross-examine the Complainant (PW-1) on 29th November 2025 without fail.
 - (b) In the event the learned Magistrate is not in a position to take up the Complaint(s) on 29th November 2025 or the cross-examination remains inconclusive due to paucity of time or otherwise, the Applicants-Accused shall conclude the cross-examination of the Complainant (PW-1) on the next scheduled date, without fail.
 - (c) The Applicants shall not seek adjournment for the purpose of cross-examination of the

Complainant (PW-1) or the witness the Complainant may examine.

(d) The Applicants shall pay total costs of Rs.20,000/- to the Complainant on or before 27th November 2025. The payment of costs shall be a condition precedent for the recall of the Complainant (PW-1) for cross-examination and in the event of default this order shall stand recalled.

(e) The learned Magistrate is requested to make an endeavour to hear and decide the Complaint (s) as expeditiously as possible and preferably within a period of six months from the next scheduled date, i.e., 29th November 2025.

Applications disposed.

[N. J. JAMADAR, J.]