

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6192 of 2025

WITH

CRIMINAL WRIT PETITION NO. 6193 of 2025

WITH

CRIMINAL WRIT PETITION NO. 6194 of 2025

WITH

CRIMINAL WRIT PETITION NO. 6195 of 2025

Chhidda Lal Sharma ... Petitioner

V/s.

The State of Maharashtra ... Respondent

Mr. Sanjeev Kadam, Senior Advocate with Ekta Vinerkar, Rajeshkhar, Anuj Arora and Laxman K, for the Petitioner in all Petitions.

Mr. A.D. Khamkhedkar, APP, for the State in WP/6192/2025.

Mr. PP. Malshe, APP, for the State in WP/6193/2025.

Ms. R.S. Tendulkar, APP, for the State in WP/6194/2025.

Mr. K.C. Shinde, APP, for the State in WP/6195/2025.

Mr. Yashpal Thakur with Mukund Pandya, for the Respondent No. 2.

CORAM : N.J. JAMADAR, J.

DATE : 4TH DECEMBER 2025.

PC:

1. Heard the learned counsel for the parties.
2. The challenge in these petitions is to the orders dated 7th November 2025 passed by the learned Magistrate, 58th Court, Bandra, Mumbai, whereby the applications preferred by the Petitioner-Accused,

who is facing prosecutions for the offences punishable under Section 138 of the Negotiable Instruments Act, 1881 to recall the complainant for cross-examination under Section 311 of the Code of Criminal Procedure, 1973, came to be rejected. Simultaneously, the learned Magistrate directed the issue of non-bailable warrant against the Petitioner, after cancelling the bail bonds, and also dispensed with the examination of the accused under Section 313 of the Code.

3. The complaints were instituted in the year 2014.

4. It appears that the Petitioner has sought adjournments on various grounds, and that contributed to delay in trial. The dilatory conduct of the accused impelled the learned Magistrate not only to reject the applications to recall the complainant for further cross-examination but also initiate measures to secure the presence of accused and even dispense with the examination of the accused under Section 313 of the Code.

5. Mr. Kadam, the learned Senior Advocate for the Petitioner, submitted that the further cross-examination of the complainant was necessary as during the course of cross-examination, the complainant made statements that he would produce the documents on the next

date. Those documents bear upon the determination of the guilt of the accused. It was, therefore, imperative to further cross-examine the complainant with regard to those statements and documents.

6. The learned Magistrate, submitted the learned Senior Advocate for the accused, hurriedly passed the impugned order and even forfeited the opportunity the accused has to give explanation to the incriminating circumstances which may appear against him, in the evidence led by the complainant. There was no justification for passing such drastic orders, urged learned Senior Advocate for the Petitioner.

7. In opposition to this, Mr. Thakur the learned counsel for the Respondent-complainant invited the attention of the Court to the manner in which the trial has progressed before the learned Magistrate. Emphasis was laid on the conduct of the accused reflected in seeking adjournments on one or the other pretext. Since the accused has concluded the cross-examination of the complainant, now it is not open for the accused to again seek recall of the complainant on the ground that certain questions remained to be put to the complainant.

8. I have perused the impugned order. As indicated above, the learned Magistrate was distressed by the conduct of the accused which

the learned Magistrate perceived to be obstructive and dilatory in nature. The matter, however, requires consideration from the perspective of the necessity of further cross-examination of the complainant for a just decision of the case.

9. In answer to a couple of questions, the complainant has replied that he would produce the documents on the next date. In such circumstances, the accused deserved an opportunity to confront the complainant with those documents, in case the complainant produced those documents as undertaken. If the complainant failed to produce the documents, as undertaken, the question of drawing inference against the complainant may arise.

10. In these circumstances, the Court finds that, the impugned order rejecting the application for recall of the complainant for further cross-examination cannot be sustained. However, the accused cannot have an unfettered right to further cross-examine the complainant on the premise that the accused had not put relevant and material questions. Thus, the right to further cross-examine deserves to be restricted to the documents which the complainant has undertaken to produce. Thus, the complainant is required to be recalled for further cross-examination to this limited extent.

11. In regard to the consequential orders passed by the learned Magistrate, it would suffice to note that, though the conduct of the accused may not have been conducive to an expeditious conclusion of the trial, yet, the learned Magistrate ought not to have passed such drastic orders of cancellation of bail bonds, issue of NBW, much less, forfeiting of the right to give explanation regarding incriminating circumstances which may appear against the accused in the evidence of the complainant. The course adopted by the learned Magistrate, with the apparent object of achieving expeditious disposal of the complaints, is fraught with the risk of vitiating the trials. Therefore, the orders of cancellation of bail bonds, issue of NBW and forfeiture of the right of the accused to offer explanation under Section 313 of the Code are required to be quashed and set aside.

12. Hence, the following order:

ORDER

- i) The Petitions stand allowed.
- ii) The impugned orders dated 7th November 2025, stand quashed and set aside.
- iii) The applications for recall of the complainant for further cross-examination stand partly allowed in all the

complaints.

iv) The complainant is recalled for further cross-examination limited to the aspect of the documents which the complainant has undertaken to produce or made statements in regard to those documents, in the cross-examination which has already been recorded.

v) The Petitioner-accused shall conduct the further cross-examination of the complainant on the aforesaid limited aspect, without fail, on 12th December 2025.

vi) It is, hereby, clarified that no adjournment shall be sought by the accused for conducting further cross-examination of the complainant.

vii) The orders cancelling the bail bonds, forfeiting the amount of bond, issue of NBW and dispensing with the examination of the accused under Section 313 of the Code stand quashed and set aside.

(N.J. JAMADAR, J)