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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.755 OF 2026

Rajesh M. Kapadia : Petitioner/
Org.Accused No.2

Versus

The Federal Bank Limited and anr. : Respondents.

Mr. Pankaj Savant, Senior Advocate a/w Advocates Ali Abbas Delhiwalla, Gouresh Mogre, Tripty M Kapadia and Anusya Raghavani i/by Joy Legal Consultants for the Petitioner.

Mr. Benny Joseph i/by B J Law Officers LLP for Respondent No.1.

Mrs. Anuja Gotad, APP for the Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 27 March 2026

PC:-

1. Heard Mr. Pankaj Savant, learned Senior Advocate for the Petitioner, Mr. Benny Joseph, learned Advocate for the Respondent No.1 and Mrs. Anuja Gotad, learned APP for the Respondent/State.

2. At the outset, Mr. Pankaj Savant, learned Senior Advocate for the Petitioner, states that there is a typographical error in the prayer clause (b) of the Petition, and therefore, he seeks leave to amend it.

3. Mr. Benny Joseph, learned Advocate for Respondent No.1, states that he has no objection to correcting the typographical error in the prayer clause (b).

4. Mrs. Anuja Gotad, learned APP for the Respondent/State, does not object to the request for amendment made by Mr. Pankaj Savant.

5. In view of the no objection given by the learned Advocates for the Respondents, leave is granted to carry out the amendment in prayer clause (b). Mr. Pankaj Savant, the learned Senior Advocate for the Petitioner, states that the amendment will be carried out forthwith. Permission granted.

6. This petition filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita seeks the following substantive relief:-

“(b) Issue writ of certiorari or any other writ, order or direction in the nature of certiorari and after examining the legality, validity and correctness of the orders passed :-

(i) below Exhibit 41 on 18th November, 2025
(Exhibit B)(Pg. No.27)

(ii) below Exhibit 111 on 27th January, 2026 (Exh 1)
(Pg No.43) and

(iii) below Exhibit 1 on 27th January, 2026 (Exh F) (Pag No.34) in C.C. No.1088/SS/2015, the same be quashed and set aside.”

7. After this matter was substantially heard, Mr Pankaj Savant, learned Senior Advocate, and Mr Benny Joseph, learned Advocate for Respondent No.1, have agreed to the disposal of this petition by consent.

8. Mr Pankaj Savant and Mr Benny Joseph state that the initially authorised representative of Respondent No.1 named Mr. Benu Mathew, was examined in Criminal Case No. 1088/SS/2015. His cross-examination could not be completed due to his transfer. To clarify, they submit that although Mr. Benu Mathew was substantially cross-examined, his cross-examination could not be completed because of his transfer to Kerala. They further submit that, pursuant to a request made by Respondent No.1, Mr. Benu Mathew was permitted to be substituted by Mr. Lecin Cherian, the newly authorised representative of Respondent No.1.

9. Mr Benny Joseph, learned Advocate for the Respondent No.1, submits that the entire controversy can be cut short if his contentions are accepted. He submits that the Respondent No.1 would now examine Mr. Lecin Cherian, the authorised representative of the Respondent No.1, as the complainant in Criminal Case No. 1088/SS/2015. He submits that the evidence (Examination-in-Chief/ Cross-examination in part) recorded of Mr. Benu Mathew will have to be discarded for

want of cross-examination. He submits that the documents which the Respondent No. 1 intends to rely on in the said proceedings shall all be exhibited through Lecin Cherian the authorised representative of the Respondent No.1. He submits that if these contentions are accepted, then the impugned orders be quashed / appropriately modified by this Court.

10. Mr. Benny Joseph, learned Advocate for Respondent No. 1, raises a serious grievance that the proceedings (Criminal Case No. 1088/SS/2015) under Section 138 of the Negotiable Instruments Act, filed by Respondent No. 1, have been pending since 2010. Although re-numbered in 2015, he asserts that the delay is attributable to the Petitioner (Original Accused). Therefore, he requests a direction for the expeditious disposal of Criminal Case No. 1088/SS/2015. He further submits that Respondent No. 1 will cooperate with the Magistrate for an early disposal of the case. Mr. Lecin Cherian shall be produced before the Trial Court on the next date, i.e. 07 April 2026.

11. Mr. Pankaj Savant, learned Senior Advocate for the Petitioner on instructions from the Petitioner, agrees to the suggestions made by Mr. Benny Joseph, the learned Advocate for the Respondent No.1.

12. With reference to the expediting of Criminal Case No. 1088/SS/2015: Mr Pankaj Savant, learned Senior Advocate for the Petitioner, submits that the Petitioner is also interested in the earlier disposal of the proceedings pending since 2010.

He submits that the Petitioner shall equally cooperate with the Magistrate in the early disposal of the Criminal Case No. 1088/SS/2015 and shall not take unnecessary adjournments.

13. Mrs. Anuja Gotad, learned APP for the Respondent/State, submits that the State is a formal party and the dispute is between the Petitioner and the Respondent No.1.

14. Perused the order dated 18 November 2025 (Exhibit B), the order dated 27 January 2026 (Exhibit I) and order dated 27 January 2026 (Exhibit F) passed by the Judicial Magistrate First Class, 30th Court, Kurla Mumbai(hereafter “Magistrate”) in Criminal Case No. 1088/SS/2015

15. As submitted by Mr. Pankaj Savant and Mr. Benny Joseph, it appears that the factual matrix in Criminal Case No. 1008/SS/2015, concerning the Examination-in-Chief, the stage of cross-examination of Mr. Benu Mathew, the exhibited documents, and the earlier stages were not brought to the notice of the Magistrate, resulting in the observations made in the impugned orders that are apparently erroneous. Mr Pankaj Savant and Mr Benny Joseph are ad-idem regarding the observations made by the Magistrate in the impugned order, which are not in accord with the record of Criminal Case No. 1088/SS/2015

16. Be that as it may, the this petition is disposed of by consent of the Petitioner and Respondent No. 1, on the following terms:-

- (A) The impugned orders referred to in prayer clause (b) of this petition are quashed and set aside.
- (B) The Respondent No.1 is permitted to examine Mr. Lecin Cherian, the authorised representative of Respondent No. 1, in Criminal Case No. 1008/SS/2015. He shall submit his Affidavit-in-Lieu of Evidence and present the documents relied upon by Respondent No. 1, in evidence.
- (B) Mr. Lecin Cherian, the authorised representative of Respondent No. 1, is permitted to be examined as the complainant in Criminal Case No. 1088/SS/2015, with the consent of Mr Pankaj Savant, learned Senior Advocate for the Petitioner, consequently the evidence of the authorised representative, Mr Benu Mathew, who was examined as a complainant in the same case, shall stand discarded.
- (C) All contentions of the parties on merits, as well as the objections available in terms of law during the Examination-in-Chief/Cross-examination, are left open for consideration by the Magistrate.

(D) By recording the statements of Mr. Benny Joseph and Mr. Pankaj Savant that the Petitioner and Respondent No.1 shall cooperate fully with the Magistrate in the early disposal of the case and shall not request adjournments unless unavoidable, the Magistrate is requested to endeavour to dispose of Criminal Case No. 1008/SS/2015 expeditiously and, at any rate, within a period of six months from 07 April 2026.

17. Mr. Pankaj Savant and Mr. Benny Joseph state that this order shall be placed before the Magistrate on 07 April 2026, and the parties shall be subject to further orders from the Magistrate.

18. Writ Petition No. 755 of 2026 is disposed of in the above terms.

(ASHWIN D. BHOBE, J.)