

MHAH170036892016



ORDER BELOW EXHIBIT 78.
(Passed on 18/08/2025)

By the present application, the accused is seeking to recall Witness P.W.9 at Exhibit 54 for cross-examination. It is submitted that after the completion of the examination-in-chief of the said witness, the matter was adjourned as the Court hours had concluded. On that basis, it is submitted that to provide an opportunity for cross-examination, it is necessary to recall the said witness.

02. The application is strongly objected to by the learned Assistant Public Prosecutor (APP). It is submitted that sufficient opportunity was already given to the accused. Hence, it is prayed to reject the application.

03. Heard both sides and perused the record. It is clear that on September 27, 2023, my learned predecessor was pleased to examine P.W.9, Noor Mohammad Babulal Inamdar, at Exhibit 54. The record reveals that on that date, as the Court hours were completed, the cross-examination was not conducted, and the matter was adjourned. Thereafter, the matter was listed on October 17, 2023. Surprisingly, on that date, there

is no order regarding the cross-examination of that witness. Even the Rojnama is silent as to whether the witness was present before the Court. Without recording anything about the witness's presence or cross-examination, the matter was directly listed for the recording of the accused statement under Section 313 of the Cr. P. C., effectively rejecting the application for exemption.

04. Admittedly, to date, the opportunity for cross-examination has not been afforded to the accused. In the interest of natural justice, it is desirable to give an opportunity to the accused to defend his case. In such circumstances, the present application is liable to be allowed. Accordingly, I pass the following order:

ORDER

The application is allowed. Issue summons to P.W.9, Noor Mohammad Babulal Inamdar, for giving an opportunity of cross-examination to the accused.

Rahata

Date:- 18/08/2025

(S. R. Bharad)

Judicial Magistrate, First Class-2,

Rahata

CERTIFICATE

“I affirm that the contents of this P. D. F. File of order is word to word as per original order.”

Name of Stenographer: S. D. Kapse

ENDORSEMENT

Case argued on	:	18/08/2025
Order dictated on	:	18/08/2025
Transcription ready on	:	18/08/2025
Order Checked and signed on	:	18/08/2025