

ORDER BELOW EXH. 40 IN C. C. NO. 140/SC/2022

1. Read the application and say filed. Heard both sides.
2. The sum and substance the application is that, the Ld. Advocate for accused could not attend the Court due to unavoidable circumstances. The sum and substance of say of complainant is that, the accused is delaying the proceedings.
3. The case is for offence punishable under section 138 of the Negotiable Instruments Act. The no cross order was passed on 19.06.2023. The application under consideration was made on 17.08.2023. It is well established that, right of cross-examination is an integral part of the principle of natural justice. Right to a fair hearing includes right to cross-examine the witness adducing evidence against a party. The accused is facing a criminal trial for offence punishable under section 138 of the N. I. Act. True it is, the proceedings has been delayed as the accused had sought adjournments on two occasions. However, the accused deserves a fair opportunity to defend herself. It should not happen that, the accused was not provided with a fair and full opportunity to defend herself. The complainant can be compensated by imposing costs upon the accused for the delay and inconvenience caused by the latter. Hence, Order :

ORDER

01. Application Exh. 40 is allowed subject to costs of Rs.2,500/- payable by the accused to the complainant.
02. On payment of the aforesaid costs amount, the accused would be permitted to conduct cross-examination of the complainant.

Mumbai
Date : 14.03.2024

Sd/-
(Mahesh V. Phade)
Metropolitan Magistrate,
7th Court, Dadar, Mumbai