

ORDER BELOW EXH. 54 IN C. C. NO. 675/SS/2021

1. Read the application and say filed. Heard both sides.
2. The evidence affidavit was filed in the year 2017. The cross-examination of the complainant commenced on 25.02.2020. Thereafter, the matter was transferred to this Court. The cross-examination of the complainant has been recorded on several occasions in piecemeal. The cross-examination was deferred on various grounds. The no cross order was passed on **14.12.2023**. The application under consideration was made on **12.04.2024**. 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 application under consideration was required to be made immediately. The proceedings has been delayed due to the absence of accused on **14.12.2023**. However, the accused deserves a fair opportunity to defend himself. It should not happen that, the accused was not provided with a fair and full opportunity to defend himself. 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. 54 is allowed subject to costs of Rs.3,000/- 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 : 27.06.2024

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