

ORDER BELOW EXH.32

1. Read the application and say filed thereon. Heard both sides. Perused record.
2. Perusal of record shows that the C.W.1 has filed his affidavit of examination-in-chief at Exh.15 on 09/04/2019. Thereafter, admissibility of documents came to be adjudicated on 16/06/2023 and matter came to be posted for cross-examination of C.W.1. However, as the accused failed to cross-examine the C.W.1, 'no-cross' order came to be passed against accused on 24/11/2023. Thereafter, accused filed an application for setting aside said 'no cross' order which came to be allowed on 13/02/2025 subject to payment of costs. Then after also, accused remained absent and did not conduct cross-examination of C.W.1 hence, complainant closed it's evidence vide pursis (Exh.30) and matter was posted for recording statement of accused under Section 313 of Cr.PC. Thereafter, accused filed present application for recalling of C.W.1.
3. Considering the interest of justice and so as to give an opportunity of fair trial to the accused, it would be just and proper to allow the accused to cross-examine the C.W.1, by compensating the complainant to some extent. Considering this aspect, following order is passed :

ORDER

1. Application is allowed subject to costs of Rs.3,000/- (Rupees Three Thousand Only) to be paid to the complainant.

2. Accused is permitted to cross-examine the C.W.1 with direction that it shall do so on next date without failure by complying with cost condition.

(D. P. Kasat)

Judicial Magistrate First Class,
63rd Court, Andheri, Mumbai

Date : 09/06/2026