

ORDER BELOW EXH.33
(Passed on 13/03/2025)

This application is filed by the complainant for setting aside the order passed below Exh.5 on 14.01.2025. Accused filed say overleaf to the application and resisted the application.

2. Heard both the advocates. Perused the application, say and order below Exh.5.

3. It is submitted by the advocate for the complainant that due to unavoidable circumstances, complainant failed to proceed with the matter and he is now wanted to proceed with the matter. Hence he prayed to set aside the order passed about discarding the evidence of the complainant below Exh.5.

4. Advocate for the accused submitted that the application is strongly opposed and complainant had not adduced evidence since 01.04.2023. He intentionally not proceeded with the matter. This application is filed without any reasonable cause or reasons. Hence, he prayed to reject the application.

5. Present case is filed as per Section 138 of Negotiable Instrument Act. The case is pending since 2019. Evidence affidavit is filed on 01.06.2024. On the same day, further chief was recorded and the matter was kept by my Learned Predecessor for chief-examination of the complainant. But since that day, complainant failed to adduce further evidence and therefore on 14.01.2025, I discarded the evidence of the complainant.

6. Since the matter is pending since last 5 years, complainant has to take necessary steps as and when necessary. Since last 1 year, evidence of the complainant is not completed. This shows that complainant is not taking sincere steps for proceeding with the matter.

7. As this application is filed by the complainant, chance is required to be given to the complainant to adduce his evidence. Hence considering the interest of nature justice as complainant filed this application and he is ready to take necessary steps in the matter, order passed below Exh.5 on 24.01.2025 is hereby set aside. Subject to cost of Rs.500/- to be paid to legal aid on or before next date.

8. Complainant is directed to take further evidence on next date without fail. If complainant failed to adduce further evidence and examine himself in further chief-examination, this application will be treated as rejected. Both parties are directed to take note of this order.

Kamptee

Date : 13/03/2025.

(Mohan R. Kamat)
Civil Judge, Junior Division,
Kamptee.