

RCC No. 747 of 2013

Prakash Trading Co.

Vs.

Ms. Harsha Department Stores 1

Order below Exh. 42

(03/04/2025)

Through this application, Complainant has prayed for setting aside evidence close order dt.23/07/2023.

2. As per contention of the complainant, complainant wants to examine his wife, but due to illness of his wife, he had failed to examine his wife. Meanwhile, no evidence order passed against him. He further stated that if court permitted to the complainant to examine his witness then no loss will be cause to the accused. Accordingly he prayed for set-aside no evidence order dated 23/07/2023 and he kindly be allowed to lead his evidence.

3. Accused has filed his say on present application and resisted contention of the complainant. According to him, complainant has filed present application with intention to prolong the said matter. The evidence of complainant recorded on 29/08/2022. After that in the month February 2023 matter kept for closure of evidence of complainant, after 3 dates evidence of the complainant came to be closed on 12/07/2023. After that on 18/09/2023 the evidence of the accused was

closed by him, hence the application is liable to be rejected.

4. Heard both side.

5. Present case is filed under the provisions section 415, 406, 420, 504, 506 r/w 34 of IPC, offences are mainly based on facts and also documentary evidence. Considering the object and purpose behind the provisions of penal act, the complainant deserves an opportunity to adduce his evidence for proving the offence against the accused. The same is also necessary for ensuring a fair trial. Inconvenience caused due to allowing this application to the accused, therefore, it needs to be compensated. Hence, following order -

Order

1. Application is allowed and order of evidence close dt.23/07/2023 is hereby set-aside subject to payment of cost of Rs.2000/-.
2. Amount of cost payable to the accused and then Complaint is permitted to lead his evidence.
3. Complainant has further directed to lead his evidence on next date without fail, otherwise necessary order will be passed.

Pimpri
Date : 03/04/2025

(T.S. Mahadik)
Judicial Magistrate F. C.
Pimpri