

MHPU180012992016



S. C.C. No.623/2016

Tukaram

Vs.

Prakash

ORDER BELOW EXH.69

(Passed On 15/12/2025)

The present application has been filed by the accused seeking to set aside the “No Cross” order dated 29/10/2025. It is the contention of the accused that, on 29/10/2025, due to heavy rainfall, he was unable to attend court and, consequently, could not conduct the cross-examination. The accused further contends that he is now ready to conduct the cross-examination. He emphasizes the necessity of conducting the cross-examination of the complainant therefore, requests that the court grant an order permitting cross-examination. The application is supported by an affidavit and also relies on medical documents of Dipak Chavan, the son of the accused.

2. The complainant has strongly opposed the application by filing say at Exhibit 72, asserting that the application is a deliberate attempt to prolong the proceedings. The complainant submits that a warrant was issued against the accused, who has been repeatedly absent in the proceedings of the present suit, which was filed in the year 2016. The complainant argues that the accused is seeking only to have the Non-Bailable Warrant canceled in order to delay the matter. Therefore, the complainant requests that the application be rejected.

3. Heard both sides. Perused the application, say and the

record is examined. It is noted that the complaint is filed in 2016. The accused has repeatedly been absent from the proceedings and, on each occasion, NBWs were either issued or canceled for various reasons. On 29/10/2025, an exemption application was filed by the Ld. Advocate on behalf of the accused, and while the accused was absent, the Ld. Advocate appeared in court. The reason cited for the absence of accused due to heavy rainfall is not found acceptable, as Ld. Advocate for the accused was present. On 4/12/2025, another application on behalf of the accused was filed at Exhibit 68, seeking exemption, which the court granted. It is observed from the record that the accused has consistently attempted to delay proceedings. The “No Cross” order dated 29/10/2025 was passed due to the lack of the accused of readiness for cross-examination.

4. The reason is not just however, it is a well-established principle of law that, for the fair resolution of disputes, an accused must be provided a reasonable opportunity to conduct cross-examination of the complainant. Considering the nature of the present case, cross-examination is necessary. However, any delay caused solely due to the accused must be compensated to the complainant. In view of the above, while recognizing the delay caused by the accused, the court finds it necessary to grant the accused the opportunity to conduct cross-examination of the complainant. Considering the previous history of the case and to ensure that justice is done, the costs of Rs. 2500/- is the just and proper to achieve the ends of justice. Thus, I pass the following order.

ORDER

- 1) The application below Exhibit 69 is allowed subject to costs of Rs.2,500/-. The accused shall pay a costs to the complainant forthwith in compliance with this order.
- 2) Upon compliance the costs the no cross order dt. 29/10/2025 is hereby set aside and the accused is permitted to conduct cross-examination of the complainant.
- 3) Both parties shall take note of this order.

Daund.
Date : 15/12/2025

(A. S. Shaikh)
Judicial Magistrate First Class,
(Court No.4) Daund.

CERTIFICATE

I affirm that the contents of this PD.F file, Order are same, word to word, as per the original order.

Name of the Steno :- Deepak A. Merukar, Grade-3
Court / Panel :- A. S. Shaikh
4th Jt. C.J.J.D. & Judicial Magistrate
First Class (Court No. 4) Daund.
Order / Judgment date :- 15/12/2025.
Order / Judgment singed by :- 15/12/2025.
the Presiding Officer on
Order/ Judgment uploaded on :- 17/12/2025.