

Common Order Below Exh. 43 to 45 in RCC No. 50/2017
(CNR No. MHRT080003452017)

On last date i.e. on 14/11/2024, PW02 Deepak Ziman is examined. Due to inability of the accused to cross-examine said witness and absence of advocate of the accused, it was directed that the matter shall proceed without cross-examination of PW02.

02. Noticeably, before passing aforesaid order below Exh. 42, the accused had made an application for adjournment. Said application at Exh. 41 was allowed subject to payment of costs of Rs. 2500/-. The accused did not pay said amount of costs.

03. By the application at Exh. 43, the accused has prayed for allowing him to deposit said amount of costs. As per application at Exh. 44, he has prayed for recalling the order whereby it was directed that the matter shall proceed without cross-examination of PW02. By application at Exh. 45, the accused has prayed for recalling PW02, for his cross-examination.

04. Learned Spl. APP has opposed the applications by filling reply on application at Exh. 44.

05. Perused the record. Heard both sides.

06. Due to failure of the accused on last date to pay the amount of costs, the matter was not adjourned and the examination-in-chief of PW02 is recorded on last date. Thus, the adjournment granted subject to payment of costs has lost its force. Being so, there is no question of depositing the amount of costs, as per order below Exh. 43.

07. As per section 311 of the Code of Criminal Procedure, 1973, the Court can examine any person present before the Court. Further, any witness who is already examined can be recalled and re-examined. It can be so done if such examination, recalling or re-examination appears

necessary for just decision of the case.

08. The accused is alleged to have committed offences punishable under sections 420 and 406 of Indian Penal Code, 1860. PW02 has deposed about some vital aspects concerning the case. Thus, it appears just to recall PW02 Deepak Ziman for his cross-examination. If the accused is not afforded such opportunity, the accused may not be able to put his defence.

09. Thus, the applications at Exh. 44 and 45 deserves to be allowed. However, the witness has to again visit the Court. Thus, necessary costs need to be imposed. Accordingly, I pass following order -

ORDER

1. Application at Exh. 43 is hereby rejected.
2. Applications at Exh. 44 and 45 are allowed subject to payment of cost of Rs. 2500/- (Two Thousand Five Hundred).
3. The amount of cost shall be paid to PW02 after he remains present for his cross-examination.
4. Issue witness summons, recalling PW02 for his cross-examination, after deposit of aforesaid amount of costs by accused.

Date : 19.11.2024

(B. D. Tare)
J.M.F.C.,Deorukh

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh. 43 to 45 in RCC No. 50/2017)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer	:- S. A. Bhale
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Deorukh
Date of decision	:- 19/11/2024
Order signed by PO. on	:- 19/11/2024
Order uploaded on	:- 19/11/2024