

**-: ORDER BELOW EXH.61 IN S.C.C. NO. 55/2017 :-**

01. Read the application and say. It is the aversion of the accused that, at the time of 313 statement due to misconception he has stated that, he does not want to examine the witness as he didn't understand its meaning. He has wrongly stated that, he didn't want to examine any witness but he has to examine the witness in his defence as the transaction between the complaint and him is in doubt. If he isn't given chance that to examine the witness, injustice will be caused on him and hence in view of principle of natural justice the application be allowed. Per contra the complainant the application of complainant is false and he is misleading the court as he has answered yes. The matter is for evidence from 15/12/2018 yet the accused has not led evidence for many days and inspite of sufficient opportunities and has filed present application. The court has given many chances to be accused if more chances are given to the accused it will cause injustice to the complainant and only to delay the matter the application is filed so, it be rejected.

02. The reason stated by the accused appears to be bonafide as in the answer he has not specifically stated that he wants to examine the witness. It may due to inadvertence or not proper knowledge and understanding of the court proceeding. The accused has stated that if he isn't given chance that to examine the witness, injustice will be caused on him. Fair trial is a constitutional mandate. In a criminal trial parties must be given every opportunity to support their case and do needful for it so, that the matter will be settled finally. The reason stated by the accused appears to be bonafide and as the Cr.P.C. have not put total bar to lead evidence after 313 statement so in the interest of justice and to decide the matter on merits fully and finally chance need to be given to accused to give evidence in his support. But at the same time considering the fact

that the application is filed late stage due to which trial will prolong cost needs to be imposed to compensate the complainant. The complainant will also not be prejudiced as he has every opportunity to cross examine the witness given by accused. Hence for above stated reasons the application is allowed subject to cost of Rs.500/- payable to complainant

Date :- 06/02/2021.

( S. H. Panhale)  
J.M.F.C., Sawantwadi.