

Order dated 04/04/2023

Today is fixed for order in connection with the petition under section 137 and 138 of Indian Evidence Act 1872.

Both the parties to this case are present by filing hazira.

Ld. Advocate for both sides are present before this Court.

Heard both sides at length.

Perused the entire case record.

On perusal of the record, it appears that the complainant has filed one application under section 137 and 138 of Indian Evidence Act 1872 seeking liberty to further cross-examine DW-1 i.e. the accused with averments that due to hurry and mistakes accused was not examined fully and for that purpose re-examination of the accused is required. The case of the complainant is seriously objected by the accused by stating that this petition is a mere dilatory tactics, for the purpose of fulfill lacuna and neither the questions are mentioned nor the ground is justified.

Here, it is a case under section 138 of N.I. Act and the evidence of D.W-1 has been completed. D.W-1 has been cross-examined by the Ld. Advocate for the complainant on one occasion i.e 30.03.2019 elaborately and exhaustively. The complainant have taken the plea of mistake in putting some questions to the accused during cross-examination but the nature and the extent of the question is nowhere mentioned in the instant petition. A petition for further cross-examination on recall must be with specific ground and averment and must mention the extent of the question which the complainant would ask to the witness.

In the current scenario it appears to me that this witness has already been cross-examined and without specification, I am not inclined to allow the instant petition.

Considering all these facts, the instant petition stands rejected.

Fix 13/06/2023 for evidence, if any from the side of the defence i.d. argument.

D/C by me

Judicial Magistrate, 1st Class,
3rd Court, Howrah

Yesmin Ara Khatun, (JO Code WB01335)
Judicial Magistrate, 1st Class
3rd Court, Howrah