

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 597 OF 2008

Nilesh R. Dhapre & Anr.

..Petitioners

versus

Rajshekhar P. Karmarkar & Anr.

..Respondents

Mr. R. S. Datar for Petitioners.

Mr. R. M. Pethe for Respondent No. 1.

Mrs. M. A. Mhatre – APP for State.

CORAM : S. A. BOBDE, J.

DATED : 31ST JULY, 2009.

P.C. :

1. Rule, returnable forthwith. Heard by consent.

2. The Petitioners have challenged the Order of the Sessions Court permitting re-examination of the Respondent No. 1. The trial court have rejected the request of the Petitioners as accused in a case under Section 138 of the Negotiable Instruments Act. During the course of cross-examination of the Respondent No. 1, the Petitioners had questioned to him regarding the source of funds in respect of the loan, which he said to have given to the Petitioners. To elucidate this aspect of the matter, the

Respondent No. 1 sought re-examination which was allowed. However, certain questions pertaining to the availability of funds with the Respondent No. 1 were disallowed. The Respondent No.1 therefore preferred a Revision which has been allowed.

3. Having heard the matter, it is clear that the learned Sessions Judge has permitted questions pertaining to the source of the funds of the Respondent No.1 by way of re-examination. Since it was the intention of the Respondent No.1 to elucidate that question which was in fact raised by the Petitioners. The Petitioners shall be entitled to cross-examine the Respondent No.1 after re-examination. There is thus no reason to interfere. Petition is dismissed.

(S. A. BOBDE, J.)