

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 824 OF 2015

Dattatray s/o. Tukaram Bodle **....Petitioner.**

Versus

Ashok s/o. Digambarrao Chavan
and Ors. **....Respondents.**

Mr. R.P. Adgaonkar, Advocate for petitioner.

Mr. U.H. Bhogle, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 15th July, 2015.

ORDER :

1. The petition is filed to challenge the order made by the learned Chief Judicial Magistrate on Exh. 362 from R.C.C. No. 227/1997. Both the sides are heard.

2. Notice is given to learned APP. The learned APP waives notice for State. In view of the nature of relief claimed, there was no need felt to give notice to other side, accused from the case.

3. The petitioner has grievance that the Trial Court has not given exhibit to the entire document, which is affidavit sworn in before Superintendent of Civil Court, Latur by accused - Janak Mallinath Bhosle. The complainant, petitioner examined one Advocate Shri. Balaji Narsingrao Chapolikar to prove that this

advocate had identified the accused when the affidavit was sworn in by him before the officer of the Court. The advocate has given substantive evidence on the presence of this accused in Latur on 18.9.1996. The submissions made by the learned counsel for petitioner show that the complainant wants to prove that on 18.9.1996 this accused was present in Latur. Thus, the contents of the affidavit are not relevant atleast for the complainant. In view of these circumstances, it can be said that there is misconception in the mind of complainant. For proving the presence of the accused on 18.9.1996, there is no need to prove the contents of the document when there is already substantive evidence of aforesaid advocate. This evidence can be considered by the trial Court on the aforesaid point involved. As the scribe of the affidavit is not examined and even the Superintendent before whom the affidavit was sworn in was not examined, there was no question of giving exhibit to show that the contents of the documents are proved. No interference is possible in the aforesaid order made by the learned C.J.M.

4. With the aforesaid observations, the writ petition is disposed of as dismissed.

[T.V. NALAWADE, J.]

ssc/