

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

CRIMINAL WRIT PETITION NO. 480 OF 2015

Biotor Industries Ltd.

..Petitioner

v/s.

State of Maharashtra & Anr.

..Respondents

Mr. Harshad Bhadbhade with Ms. Kunjal Patil i/b. Joy Legal
Consultant for the Petitioner.

Mr.Rishi i/b. PKA Associates, for the respondent no.2

Mr.Rajesh More, APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : SEPTEMBER 11, 2015.**

P.C.

1. The petitioner herein has challenged the order dated 10.12.2014 whereby the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai has dismissed the application filed by him under Section 91 r/w. 254(2) of the Cr.P.C.

2. The applicant company is an accused in C.C.No.13499/SS/2009 filed by the respondent no.2 complainant under Section 138 of the Negotiable Instruments Act. In the course of evidence of the complainant, the Counsel for the accused had

requested the complainant to produce certain documents. Since the complainant failed to produce the said documents, the applicant-accused filed application under Section 91 r/w. 294(2) of Cr.P.C. He sought to direct the complainant to produce the original insurance policy, supporting documents submitted before the Tata AIG Insurance company, Survey Report of Parimal Shah sent to Tata AIG, several documents demanded by Tata AIG vide letter dated 9.3.2011, correspondence regarding policy exchanged between Tata Capital and Tata AIG and affidavit filed by the complainant before the Arbitrator.

3. The said application was contested by the petitioner and the other accused by filing reply dated 24.11.2014. The learned Magistrate dismissed the said application by impugned order dated 10.12.2014. The learned Magistrate held that the complainant had put forth the case that one Hathibhai Bulakhidas Pvt. Ltd. had supplied certain material to the accused and that the complainant had made payment on behalf of the accused. The learned Magistrate held that the documents are not directly related to the disputed transaction and are not necessary to be produced as they

are not relevant for the purpose of deciding the defence raised by the accused. Based on the said finding, the application came to be dismissed.

4. I have perused the complaint, the application filed under Section 91 of Cr.P.C., as well as the reply filed by the respondent complainant. On going through the contents of the complaint as well as the application under Section 91 of Cr.P.C., I am of the view that the documents referred to by the applicant accused in the said application are not relevant for the purpose of deciding the controversy between the parties, including the defence raised by the accused. In my considered view, the findings of the learned trial Judge are neither illegal nor improper. Furthermore, it has been submitted that the evidence of PW1 is already completed and as such the petition itself has rendered infructuous.

5. Considering all the above facts, I do not find any reason to interfere with the order. The petition is dismissed.

(ANUJA PRABHUDESSAI, J.)