

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 4564 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 4565 OF 2014
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CRIMINAL WRIT PETITION NO. 4566 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 4567 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 4568 OF 2014

Ajeet Shankerlal Bhatia .. Petitioner

Versus

Jai Prakash Nariandas Nagdev & Anr. .. Respondents

Mr. Prakash Naik i/b Smt. Vrishali R. Raje, Advocate for the petitioner.

Mr. Vijay Kamat i/b Kranti S. S. Anand, Advocate for the respondent No. 1.

Mr. A. R. Patil, APP for the respondent-State.

CORAM:-M.L. TAHALIYANI, J.
DATED : -12/03/2015

P.C.

Heard the learned counsel for the parties.

2 Perused the impugned order. It is noted that the

learned Magistrate has refused to recall PW 1 on the ground that his evidence was over as back as on 4th of January, 2014. PW 1/the petitioner in all the writ petitions is the complainant in five cases bearing C. C. Nos. 1794/2007, 1795/2007, 1801/2007, 1802/2007 and 1803/2007, respectively. Admittedly his examination and cross-examination is completed. He has now made an application for recalling himself to produce certain documents. It is submitted by the learned counsel Mr. Naik, that the documents were already in existence and copies thereof were produced in the Court. They could not be exhibited for certain reasons. Respondent No. 1 (accused) during the course of cross-examination of PW 1 had raised the issue with regard to the documents in question. It is in these circumstances that the petitioner was compelled to move the Magistrate to grant him permission to recall himself and to examine himself further to produce those documents. In my opinion, the prayer should not have been rejected as the

documents might be required for examining the contention of the petitioner/complainant as to whether there was a transaction or not.

3 As far as the evidenciary value of the documents is concerned, it is always subject to Law of Evidence. Simply production of documents will not prove the documents and also will not prove the contents of the documents. The production also will not prove the correctness or otherwise of the documents. All these issues are to be established by laying proper evidence on the part of the petitioner. Hence, I am inclined to set aside the order of the learned Magistrate. As such, Hence, I pass the following order:

The impugned orders passed by the learned Magistrate in C. C. Nos. 1794/2007, 1795/2007, 1801/2007, 1802/2007 and 1803/2007 are set aside.

The learned Magistrate is directed to recall PW 1 in all the cases and allow further examination to the limited

extent of production of documents.

All the five petitions stand disposed of
accordingly.

(JUDGE)

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