

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APL] No. 466 of 2015
[Anwar Ali Yusuf Ali Vs. Pankaj Kumar Bhandari]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. K.D. Deshpande, Adv., for the Applicant.
Mr. R.R. Vyas, Adv., for respondent sole.

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CORAM : V.M. DESHPANDE, J.

DATE : 07th September, 2015.

01. Heard Mr. K.D. Deshpande, learned counsel for the applicant.

02. By the present application, the applicant is assailing the order passed by learned Judicial Magistrate First Class, Fourth Court, Chandrapur, dated 19th June, 2015, below Exh.109 in Summary Criminal Case No. 1903 of 2012, by which the learned Magistrate rejected the application for recalling the witnesses - [1] Sanvarali, and [2] Ameenkhan.

03. The applicant is the complainant. According to the case of the complainant, the accused entered into an Agreement of Sale with the complainant and he has accepted the consideration of Rs. 9,00,000-00. The Agreement was reduced into writing. However, the transaction could not be completed and, therefore, the accused cancelled the agreement and executed another agreement with the complainant dated 16th April, 2010 for returning the amount of Rs.9,00,000-00. Out of that, he has issued a cheque of Rs.6,00,000-00 which gave rise to the present complaint.

04. The complainant entered the witness box and has also examined his witnesses and thereafter he filed the Pursis. Thereafter, the accused also entered the witness box and he has also completed the entire evidence. Thereafter, the matter was fixed for arguments. That time, an application [Exh.109] is moved by the applicant for recalling of the witnesses - [1] Sanvarali, and [2] Ameenkhan to prove the Agreement dated 5th April, 2009. The application is vague as it could be. According to the learned counsel, the said agreement is already filed on record. Further, in the entire complaint, there is no reference of the Agreement dated 5th April, 2009 which the complainant now wants to prove by recalling the witnesses. Those witnesses were already examined by the applicant/complainant. However, no question was put to them in respect of agreement dated 5th April,

2009 which is on record. Even there is no reference in the Examination-in-Chief in respect of the agreement dated 5th April, 2009. In that view of the matter, there is no merit. Application is rejected.

Judge

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