

CRIMINAL APPLICATION NO. 5570 OF 2016

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Shri N.B.Narwade, advocate for applicant
Shri K.D.Munde, A.P.P. for respondent

DATED : 4th October, 2016

The Special Executive Magistrate in Sessions Case No. 82 of 2015 recorded the statement of the accused and pursuant thereto the Judicial Magistrate, First Class, Ahmednagar recorded the statement of the accused under Section 164 of the Code of Criminal Procedure.

2 The Special Executive Magistrate presented himself for recording the evidence. The issue as to the admissibility of the right of the Special Executive Magistrate to record statement and pursuant thereto recording of confession under Section 164 of the Code of Criminal

Procedure was objected to. The learned Additional Sessions Judge, Ahmednagar rejected the said objection by the impugned order dated 29.9.2016 observing that the issue as regards admissibility of the evidence qua the act of the Special Judicial Magistrate to record the statement and pursuant thereto the Judicial Magistrate recording the statement under Section 164 of the Code of Criminal Procedure can be gone into and decided at the stage of final hearing of appeal. This order is questioned in the present application.

3 Having heard the learned counsel Shri Narwade for the applicant, in my opinion, no illegality could be noticed in the impugned order, when the view expressed by the learned Judicial Magistrate, First Class, Ahmednagar is well protected by the view expressed by the Apex Court in the case of **Bipin Shantilal Panchal vs State of Gujarat**, reported in **AIR 2001 SC 1158**. As such, the Criminal Application fails and stands dismissed.

(N.W.SAMBRE, J.)

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