

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 67 OF 2016

MR. LESTER MELO.

... Petitioner

Versus

MS. ARLENE MC JURY AND ANR.

... Respondent

Adv. Rohan Pandurang Desai for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 8th June, 2016

P.C.:

Heard the learned counsel for the petitioner.

2. By this petition, the petitioner, who is the accused in a complaint case before the learned Chief Judicial Magistrate at Panaji is challenging the order dated 20/11/2015 by which the application exhibit 75 filed by the respondent/complainant, for examination of Mr. Samir V. Lotlikar and for production of the record pertaining to account no.0003103119001 along with certificate under 2A of the Bankers Book Evidence Act, 1891 has been allowed.

3. The only contention raised on behalf of the petitioner is that such an order could not have been passed under section 246(6) of Cr.P.C. He submits that the aforesaid provision contemplates examination of the remaining witnesses of the complainant/prosecution and the present Branch Manager Mr. Samir Lotlikar cannot be examined as

he cannot be said to be the remaining witness.

4. I do not find that the submission can be accepted. The Criminal Case before the Magistrate is triable as a warrant case, instituted otherwise than on a police report in which the learned Chief Judicial Magistrate had earlier recorded evidence before charge. Thereafter the charge is framed against the petitioner for the offences punishable under sections 403, 405, 415 and 420 of I.P.C. Considering the fact that Mr. Samir Lotlikar is the Branch Manager of the bank where the petitioner is having the aforesaid account, there is no reason why the respondent cannot seek the examination of such a witness. In the result, I do not find that any case for interference in the impugned order passed by the learned Chief Judicial Magistrate is made out. Consequently the writ petition is dismissed.

C. V. BHADANG, J.

ap/-