

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

CRIMINAL WRIT PETITION NO. 133 OF 2016

M/s. Darshan Group

... Petitioner

vs.

The State of Maharashtra & ors.

... Respondents

Mr. Sujeet G. Kurup i/by M/s.Kurup Shivaji and Company,
Advocate for the petitioner.

Mr. Mukesh Modi, Advocate for respondents No.2 to 5.

Ms. A. Malhotra, Additional Public Prosecutor for the State.

Coram : Smt. R. P. SondurBaldota, J.

Date : 11th February, 2016.

P. C. :

1. This petition is against the order dated 21st December, 2015, by which the trial Court dismissed the application at exhibit 170 filed by the petitioner under Section 311 Cr.P.C., for recalling it's witness, Mr. Devendra Chellani and to examine one more witness. Respondents No.2 to 5 had opposed the application by filing their say.

2. The evidence of the petitioner was completed on 20th October, 2013 when the second witness of the petitioner was examined. Thereafter, the statement of respondents No.2 to 5 under Section 313 Cr.P.C. was recorded. Then the respondents

led evidence of their first witness and when that witness was to be cross-examined, the petitioner filed the application in question. The trial Court rejected the application for the following reason stated at para 4 of the order.

“So far as, the dishonour of the cheque, complainant filed the statement of account, but learned counsel for the accused during the argument submitted that he has no dispute about the bouncing of the cheque”.

3. The reasons stated by the trial Court are correct and proper. No infirmity is found with the same. Besides, the application of the petitioner refers to only one document and specifies recall of it's one witness i.e. Mr. Devendra Chellani. There is a vague reference to some Bank statements in the application and representative of “State Bank of Hyderabad and any other further witness” to be examined to prove the documents. The application does not explain as to why that documents could not be tendered at the time of evidence of the witness on behalf of the petitioner. It is next to be noted that the complaint has been pending for hearing since the year 2012. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]