

Anand

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

WRIT PETITION NO.634 OF 2016

Rajendra Chalbihari Agarwal .Petitioner

Vs.

The State of Maharashtra .Respondent

Mr.Priyal Sarda, Advocate, for the Petitioner
Mr.A.S.Shitole, APP, for the Respondent – State

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 25.02.2016

P.C.

. This Writ Petition is preferred challenging the order passed by the learned Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai on 12.01.2016 rejecting the Petitioner's prayer for production of crane in question for inspection in the Court.

2. According to the learned counsel for the Petitioner, it is the specific case of the Petitioner/Accused that the crane having

Registration No.NL-02-K-0309 which is seized from possession of the Petitioner by the Chembur Police Station, Mumbai is manufactured in the year 1979-80 and not in the year 1990 as per the claim of the prosecution. It is also specific stand of the Petitioner/Accused that the crane which is seized is bearing Sr.No.82084 and Chassis No.28/2490128 and not Chassis No.490128 as claimed by the prosecution. Thus, according to the learned counsel for the Petitioner, the very identity of the crane which is seized by the prosecution is in question and therefore, in order to arrive at just decision of the case he has moved the application before the trial Court for production of the said crane for inspection of the Court. However, the trial Court has rejected the application mainly on the ground that the crane is at Nasik. It is very huge and bulky and as such, it is not in a fit condition to be driven on the road as it would take time and expenditure. Hence, the trial Court has rejected

the said application.

3. Now, submission of the learned counsel for the Petitioner is that he is ready to accept the inspection report of the investigating officer, if he carries out inspection of the crane going to Nasik and make such inspection in the presence of the Petitioner/Accused and informant, he will not challenge the said inspection report even if it goes adverse against him.

4. Learned APP has no objection for this course to be adopted. As the trial is about to be concluded, it is directed that the investigating officer should visit Nasik and inspect the crane in question in the presence of the Petitioner/Accused and the Original Informant/Complainant and submit his report within a period of two weeks giving the details as to Crane Chassis No., Engine No., Make year and Sr.No.. The undertaking given by the

learned counsel for the Petitioner that the report of the investigating officer will not be challenged and trial will be proceeded on the basis of the said report is accepted. The investigating officer to give intimation of the proposed date of his visit and inspection to both the Petitioner and the Complainant.

(DR.SHALINI PHANSALKAR-JOSHI, J.)