

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 793 OF 2014

M/s. Tactors Spares CorporationPetitioner
V/s.
Standard Chartered Bank and anotherRespondents

WITH
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V/s.
Standard Chartered Bank and anotherRespondents

Mr. Yashpal Thakur h/f R. H. Mirchandani Advocate for Petitioner.
Mr. K. O. Devassy Advocate for Respondent
Mr. A. R. Patil APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : JUNE 27, 2016.

PC :

Heard.

- 2) Rule. Rule made returnable forthwith with the consent of the parties.
- 3) Petitioner herein happens to be original accused in C.C. No. 53/SS/2007. It appears from the record that application was filed by the complainant below Exhibit 27 stating therein that along with the complaint, complainant had filed photo copies and originals of certain documents with

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list of documents, however, inadvertently the endorsement of verifying with the original is not made, even though the complainant has prayed for the same. A direction was sought to the Judicial Clerk to verify the said documents along with the originals. On 22/01/2014, accused had filed an application seeking adjournment. Adjournment application was rejected and the complainant was permitted to produce the documents. It appears from the proceedings that Judicial Clerk of Metropolitan Magistrate had verified the documents from the originals on 14/10/2013. The said order was passed on the same day when the documents were produced. It is a matter of record that the verification is done by the Judicial Clerk. It is matter of record that no application was filed as contemplated under section 65 (A) & 66 (B) of the Indian Evidence Act. It is apparent that learned Magistrate had followed an incorrect procedure and the same cannot be validated.

4) Learned counsel for the Petitioner fairly submits that in the said proceedings, the next scheduled date is for cross-examination of the complainant/witness. Learned counsel is not seeking stay to the proceedings. It is in these circumstances, Petitioner is at liberty to file an application raising objection to the production, verification and acceptance of the

documents filed by the complainant subsequent to filing of the complaint.

Hence, the following order.

- (i) The order dated 22/01/2014 accepting production of documents and consideration of the same stands quashed and set aside.
- (ii) Learned Magistrate shall take into consideration the objections raised by the Petitioner and shall deal with it in accordance with Law at the proper stage.
- (iii) Rule is made absolute in the above terms.
- (iv) Writ petition stands disposed of.

(SMT. SADHANA S. JADHAV, J.)