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

CRIMINAL WRIT PETITION NO.2466 OF 2016

Irfan Rahatali Shaikh @Kafan

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr.Sheikh Mohammed Imran, for the Petitioner.

Mr.V.B.Konde-Deshmukh, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 7th SEPTEMBER, 2016

P.C. :

1. Heard learned Counsel for the petitioner and the learned A.P.P.
2. By this petition, the petitioner has impugned the order dated 5th April, 2016, passed by the learned Metropolitan Magistrate, 45th Court, Kurla, Mumbai, by which his application seeking recall of the witness i.e. PW.1 for cross examination under Section 311 of the Code of Criminal Procedure, came to be rejected.

3. Learned Counsel for the petitioner submitted that the petitioner intends to bring some crucial documents on record. He submitted that the said documents, at Exhibit – 'F', which are annexed from page nos.29 to 37 to the said petition, were not available when the petitioner filed the application seeking recall of the witness i.e. PW.1 for cross examination under Section 311 of the Code of Criminal Procedure, and therefore, the said application was bereft of any details. He requests that liberty be granted to the petitioner to file another application, setting out all details with respect to the documents which are annexed from page nos.29 to 37 to the said petition.

4. Learned APP opposed the petition. He submits that a perusal of the application seeking recall of PW.1, shows that the said application, is bereft of details and therefore the learned Magistrate rightly rejected the said application being Exhibit – 6.

5. Perused the papers, including the application seeking recall of PW.1 and the impugned order dated 5th April, 2016. The application (Exhibit - 6) is clearly bereft of any details. No reasons or grounds are

stated on which the petitioner intends to cross examine the said witness i.e. PW.1. The learned Magistrate has therefore, rightly rejected the application (Exhibit – 6) vide order dated 5th April, 2016. It is not clear/known, whether the said documents were available to the petitioner or not when the application was filed, nor is it known, whether the said documents were shown to the learned Magistrate or not.

6. Needless to state, that the petitioner is always at liberty to file an application, if he so desires, on the basis of the so called new documents now made available to him. No liberty is required from this Court.

7. In the light of what is stated aforesaid, no infirmity can be found in the impugned order. Accordingly, the petition is rejected and disposed of as such.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.