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

CRIMINAL APPLICATION NO.1036 OF 2016

Rajnikant Manilal Shah	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.E.V.Sawant, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 29th NOVEMBER, 2016

P.C. :

1. Heard learned counsel for the applicant.
2. By this application, the applicant has impugned the order dated 9th December, 2014, by which the learned Metropolitan Magistrate, 61st Court, Kurla, Mumbai, was pleased to pass the following order:-

ORDER

- i) The accused is directed to produce the original release deed dated 04/08/1988 on 31/01/2015 positively.

- ii) If the accused produces the same, the prosecution is at liberty either to lead further evidence or to recall any witness. If the prosecution leads further evidence or recalls any witness the accused is at liberty to cross-examine the witnesses.
- iii) If the accused fails to produce the original release deed then a charge under Section 204 of the Indian Penal Code be framed against the accused.
- iv) The matter be kept on 31/01/2015.

3. The aforesaid order dated 9th December, 2014, was challenged by the applicant by filing a Revision Application in the Sessions Court and the learned Additional Sessions Judge vide order dated 3rd May, 2016, was pleased to dismiss the said Revision Application.

4. Learned Counsel for the applicant submits that the applicant in his 313 statement had disclosed in question no.11 that the original release deed was lost and that despite the said answer, the learned Metropolitan Magistrate had directed the applicant (original accused) to produce the original release deed dated 4th August, 1988, on the next date i.e. 31st January, 2015. He submitted that such a direction ought not to have been

given considering the answer to question no.11. According to the learned counsel the applicant does not have the original release deed and that there is a report given to the police to that effect. He further submitted that a certificate has also been issued to that effect by the police.

5. Learned APP states that no prejudice is caused to the applicant (original accused) by the said order dated 9th December, 2014. He submitted that if the applicant does not have the original release deed, he can file an appropriate application/reply alongwith the report stating therein that the said original release deed dated 04/08/1988 is lost.

6. Perused the papers. There is no infirmity in the order dated 9th December, 2014 as well as order dated 3rd May, 2016. The learned Metropolitan Magistrate had directed the applicant to produce the original release deed. If the applicant does not have the original release deed, as is being urged by the learned counsel for the applicant, then the applicant is always at liberty to file an appropriate application/reply alongwith a report.

7. The application being sans merit, is rejected and is accordingly disposed of.

REVATI MOHITE DERE, J._