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

CRIMINAL APPLICATION NO.1045 OF 2016

Sanjay D. Satam

...Applicant

Versus

1. Mukesh Purav

2. The State of Maharashtra

...Respondents

Ms.Kranti S.S. Anand, for the Applicant.

Mr.Shreepad Murthy, i/b Mr.Abhishek Patil, for the Respondent No.1.

Mr.Avinash Khamkhedkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 1st SEPTEMBER, 2016

P.C. :

1. Heard learned Counsel for the applicant.
2. By this application, the applicant has impugned the Order dated 10th August, 2016, passed by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai, below Exhibit – 62, by which the applicant's application to examine Pravin Mhatre, as a defence witness came to be rejected.

3. Learned Counsel for the applicant submitted that Pravin Mhatre is a crucial witness and that the applicant intends to examine Pravin Mhatre as a defence witness. She urged that the applicant had taken steps to secure the presence of Pravin Mhatre, however, Pravin Mhatre was in the jail for sometime and that the applicant was not fully aware of the whereabouts of Pravin Mhatre after his release from custody. Learned Counsel states on instructions, of the applicant, that by way of one last chance, the applicant be permitted to examine the said witness - Pravin Mhatre for proving two documents/receipts dated 12th December, 2012 and 22nd June, 2012. She submits that the applicant will ensure that the said witness - Pravin Mhatre will be kept present before the Trial Court on 3rd September, 2016.

4. Learned Counsel for the Respondent No.1 opposes the application. He submitted that ample opportunity was granted to the applicant to produce the said witness.

5. Perused the papers. It appears that the name of Pravin Mhatre figures in the complaint filed by the respondent no.1. It appears that the

applicant had taken some steps to procure the presence of Pravin Mhatre. The applicant also undertakes to keep Pravin Mhatre present on 3rd September, 2016 before the Trial Court or on any date as may be fixed by the Trial Court and will not seek any adjournment. The learned counsel for the applicant also states that the applicant does not propose to examine any other witness except Pravin Mhatre. The said statements are accepted.

6. Considering the aforesaid facts, the application is allowed.

7. Accordingly, the impugned Order dated 10th August, 2016, passed by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai, below Exhibit – 62, is quashed and set aside and the applicant is permitted to examine Pravin Mhatre as a defence witness. The applicant to take steps to keep the said witness - Pravin Mhatre present in the Trial Court on 3rd September, 2016, or on any date thereafter, as may be directed by the Trial Court, so that he can be examined as a defence witness. Needless to state, that Respondent No.1 will have a right to cross-examine the said witness. It is made clear that if the said witness - Pravin Mhatre fails to appear before the Trial Court on 3rd September, 2016 or any dates subsequent

thereto, given by the Trial Court, the Trial Court shall close the evidence of the said witness and proceed with the matter on merits. The learned Magistrate shall decide the case, as expeditiously as possible, and preferably within three months from today.

8. The application is allowed and disposed of in above terms.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.