

Anand

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

CRIMINAL APPLICATION NO.1213 OF 2016

Dr. Sushil Kanubhai Shah .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr.A.P.Mundargi, Senior Counsel a/w. Mr. H. A.
Jariwala i/b.AUROMA LAW, for the Applicant
Mrs.P.P.Shinde, APP, for the Respondent No.1 –
State
Mr.Dileep Balkrishna Nevatia, Respondent No.2-
in-person present

CORAM : REVATI MOHITE DERE, J.

DATE : 18.11.2016

P.C.

. Heard Learned Senior Counsel for
the Applicant and Mr.Nevatia, Respondent
No.2-in-person.

2. Although, the order impugned in the
Application in prayer Clause (a) is the order
dated 05.08.2016 passed by the learned Addl.
Chief Metropolitan Magistrate's 62nd Court,
Dadar, Mumbai below Exh.66, the Learned Senior

Counsel does not press for the same, as the proceedings have progressed thereafter. He submits that after the impugned order dated 05.08.2016 was passed, witness summons were issued to the Advocate, Suresh Chandrashekhar, pursuant to which he appeared and his examination-in-chief commenced. He submitted that during his examination-in-chief, the said witness Suresh Chandrashekhar claimed privilege, pursuant to which the matter was adjourned. It was observed by the learned Magistrate that he would decide the said question, after considering the citations submitted by the Complainant.

3. Learned Senior Counsel submits that the learned Magistrate be directed to hear both, the Complainant as well as the Advocate for the Accused (Applicant), on the issue of privilege raised by the parties. The Respondent No.2 – Complainant, who appears in person has no

objection, if the learned Magistrate hears the counsel for the Accused (Applicant) before passing appropriate orders.

4. Accordingly, the learned Magistrate, 62nd Court, Dadar, Mumbai is directed to hear both, the Complainant as well as the Advocate for the Accused i. e. the Applicant, on the issue of privilege raised by the parties before passing any orders. Learned Magistrate shall make an endeavour to decide the said issue as expeditiously as possible and preferably within six weeks, from the date of receipt of this order.

5. Accordingly, the Application is disposed of on the aforesaid terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)