

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

WRIT PETITION NO. 2963 OF 2016

Shivani Satish Gosain	vs.	... Petitioner
State of Maharashtra and anr.		... Respondents

Mr. Sujit Pathak, Advocate for the petitioner.
Mr. V. V. Gangurde, A.P.P. for the State/respondent no.1.

Coram : Smt. R. P. SondurBaldota, J.
Date : 31st January, 2017

P.C. :

1. The petitioner is the first informant in CC No.906/PW/2012 pending in 67th Court of Metropolitan Magistrate, Borivali, Mumbai. After entire evidence of the prosecution was complete and after statement of the accused under Section 313 of Criminal Procedure Code was recorded and when the matter was to proceed for final arguments, she filed an application dated 4th August, 2016 for recalling herself for production of five documents and her further evidence. The five documents sought to be tendered by the petitioner are as under :

- (i)** Medical paper of treatment of the first informant at Shri. H.B.M.G. Hospital Borivali, Mumbai,
- (ii)** Affidavit cum declaration executed by the accused on 30/08/2011,
- (iii)** Hand written note of the accused dated 21/08/2011,
- (iv)** acknowledgement of the gold jewelleryes of the first

informant deposited by the accused with Muthoot Finance, Malad branch and

(v) consent terms dated 07/05/2013 signed by the first informant and the accused before Marriage Counsellor, Family Court, Bandra, Mumbai.

The trial Court by the impugned order permitted production of the documents but rejected the application for recall.

2. The record shows that when the evidence of the petitioner was being recorded on 22nd December, 2014, the same was deferred to enable the petitioner to produce originals of the above documents because what had been produced by her were the photo-copies of the documents. According to the petitioner, the original documents had been tendered in the proceedings in the Family Court. But at that time the petitioner did not take any step for collecting the original documents and producing the same in evidence in the proceedings before the learned Magistrate. Thereafter the entire evidence of the prosecution was completed. In these circumstances, the trial Court rejected the application. The second reason for the rejection of the application is that the documents produced do not require the petitioner to depose. Therefore her recalling was not necessary. I find no infirmity whatsoever in the view taken by the learned Magistrate. The petition is therefore dismissed.

[Smt. R. P. SondurBaldota, J.]