IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.543 OF 2016
(Rohit Satyanarayan Jejani vs. Sanjay Gupta and Co. and another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
	Shri S.S. Sitani, Advocate for petitioner.

CORAM : P.N. DESHMUKH, J.

DATED : JUNE 19, 2017

Heard Shri Sitani, learned Counsel for petitioner. None for respondents though served. Even on the earlier date, respondents was not represented by anyone and matter was adjourned with a view to give one more opportunity to respondents to defend the petition on merits as a last chance. In spite of that, nobody appears for respondents. As such, petition is heard finally.

The only point involved in this petition is whether documents, which are prayed by petitioner to be exhibited claiming them to be public documents, can be exhibited and considered at the time of final hearing or otherwise.

It appears that in the proceedings initiated by petitioner being original complainant against respondents as accused under Section 138 of the Negotiable Instruments Act, petitioner filed an application before learned trial Court praying to exhibit two documents being public documents. One of the documents was acknowledgment received from the

Income Tax Department and second document was certified copy of the order passed in Special Civil Suit No.768/2007. It was the case of petitioner that both the documents being public documents need not be proved in evidence. However, considering the say of respondents, learned trial Court by the impugned order rejected the application of petitioner holding that it would not be proper to exhibit said documents directly as they need to be proved by examining witnesses.

The reason put forth does not appear to be convincing in any manner in view of the fact that both documents can be directly exhibited being public documents as per Section 74 of Code of Criminal Procedure and needless to say that after exhibiting said documents, evidentiary value of them can duly be considered keeping in mind facts involved in the complaints. It appears that learned trial Court considering the reply filed by respondents that acknowledgment received from the Income Tax Department is a forged document and certified copy of order passed in Special Civil Suit No.768/2007 needs to be proved before exhibiting the same, rejected the application. The impugned order thus does not stand to any reason. The petition is, therefore, liable to be allowed.

Learned trial Court, who is seized with Criminal Complaint Nos. 12043/2014, 12044/2013 and 13427/2014 shall duly exhibit both the documents and evidentiary value of these documents shall duly be considered with regard to facts involved in the complaints on merits.

In view of the fact that proceedings before learned trial Court were stayed, learned trial Court shall make an endeavour to dispose of above referred criminal complaint cases expeditiously and in any event, within six months from the date of receipt of writ of this Court.

The criminal writ petition is accordingly allowed. No order as to costs.

JUDGE

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