

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 240 OF 2018**

Neeta T. Nariani

.....Applicant

Vs.

The State of Maharashtra & Anr.

....Respondents.

Mr. Rohan Bhosale I/by S.R. Karnik for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 29th AUGUST, 2018.****P.C.:-**

The Applicant, by the present Application under Section 482 of the Code of Criminal Procedure, has questioned the correctness of the Order dated 26th August, 2016 passed below Exhibit-10 in C.C.No. 5736/SS/2012 by the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai thereby rejecting her Application filed under Section 91 of the Code of Criminal Procedure and the Judgment and Order dated 17th January 2018 passed in Criminal Revision Application No. 1211 of 2016 by the learned Additional Sessions Judge, Greater Bombay, thereby dismissing the said Revision Application.

2 Heard the learned counsel for the Applicant and the

learned APP. Perused the record.

3 The Applicant is an accused in a case instituted by the Respondent No. 2 under Section 138 of the Negotiable Instruments Act, bearing C.C. No. 5736/SS/2012, which is pending on the file of Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai.

 The Applicant preferred an Application below Exhibit 10 under Section 91 of the Code of Criminal Procedure for issuance of directions to the Complainant for producing on record Income Tax Returns of the financial year 1999-2000, 2000-2001 and 2001-2002 and also PAN Card of the Complainant. The learned Trial Court, after hearing the parties, was pleased to dismiss the Application by its order dated 26th August, 2016.

 The Revisional Court has confirmed the said Order by its Judgment and Order dated 17th January, 2018.

4 The record indicates that, the Complainant/Respondent No.2 has denied the existence of the said documents and had further contended that for deciding his Complaint filed under Section 138 of the Negotiable Instruments Act, the said documents are not relevant.

 Whether the documents are relevant or not can be decided by the Trial Court during the course of recording of the evidence of

the parties and if those documents are in existence and the Complainant has intentionally suppressed the same, an adverse inference/presumption under Section 114(g) of the Indian Evidence Act can be drawn against the Complainant by the Trial Court.

5 In view thereof, I find no merits in the present Application.

I further find that, both the Courts below have not committed any error either in law and/or in facts and there is no need to interfere with in the Orders passed by the Courts below by this Court.

6 Application is accordingly rejected.

(A.S. GADKARI, J.)

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