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

WRIT PETITION NO. 2091 OF 2017

Vineet Om Prakash Dujodwala and AnrPetitioners

V/s.

The State of Maharashtra and AnrRespondents

Mr. Yuvraj Patil for the petitioner.
Mrs. S. S. Kaushik APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : APRIL 20, 2018.

P.C.

In a complaint for offence under section 138 of the Negotiable Instruments Act, 1881 filed through a director who was authorised by resolution passed by the complainant company was permitted to be substituted by the impugned order.

2 The learned counsel for the petitioners would submit that apart from the fact that such substitution is not permissible in law, the fact remains that substituted representative who is a director of the complainant company cannot be examined, once the complaint is filed

under the signature of the earlier person who was representing the complainant company before substitution. According to him, a great prejudice will be caused in case, if the illegality caused by virtue of impugned order is permitted to continued as petitioner loses his clear right of defence apart from the fact that same amounts to filling in the lacunas.

3 Without going into the merits of the aforesaid submission, the only observation which in my opinion could secure the interest of justice can be made are, the petitioner will be at liberty to raise the issue as regards the legality of order of substitution passed by the Magistrate and permitting the substitute person to depose on behalf of the company at the stage of final hearing, including objection to cross-examination of such witness.

4 No interference is warranted in the light of above observations. Petition stands disposed of.

[NITIN W. SAMBRE, J.]