

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

WRIT PETITION NO. 2526 OF 2018

Mr.Rajesh Tiwari

...Petitioner.

V/s.

State of Maharashtra

...Respondent.

Mr. Dinesh Tiwari i/by Dinesh Tiwari and Associates for the Petitioner.
Mr. S.S.Hulke, APP for the State.

CORAM : A.S.GADKARI, J.
DATE : 18th September, 2018

P.C.:

1. By the impugned Order dated 5.5.2017 passed below Exhibit 24 in CC No.93/P/2002 has been rejected. the application preferred by the petitioner under Section 91 of the Code of Criminal Procedure for production of documents which were allegedly in possession of P.W. No.1 Satyawant Sawant has been rejected.

2. The present crime i.e. CR No.10 of 2002 is registered against the petitioner under Section 341 and 353 of the Indian Penal Code on the allegation that he obstructed, abused and threatened a public servant who

was discharging his lawful duty when the concerned informant was serving in traffic department. It is the contention of the learned counsel for the petitioner that initially LTM Case (No. of which number is not mentioned in the petition) was registered against the petitioner by the first informant and during the lodgment of the said case certain verbal altercations took place which gave rise for lodgment of the present crime. It is the further contention of the petitioner that for putting forth his defence in the present case the papers pertaining to the said LTM Case was necessary and as per the petitioner the said papers are in possession of P.W.No.1 Satyawar Sawant.

The record clearly indicates that, the said LTM case has been decided in the year 2002 itself by the learned Metropolitan Magistrate 5th Court, Dadar and as per the procedure the papers of the said ATM case were preserved for one year. That, the petitioner failed and did not bother to collect the said necessary documents of the case from the concerned Court after his acquittal and now wants to rely on those documents in support of his defence.

3. The record clearly indicates that the said documents are not in the custody of P.W. No.1. Satyawar Sawant and therefore, he is unable to produce the same. The record further discloses that, the concerned witness

has already been transferred from Traffic Department to Mantralaya as Security person and he is not in custody of the said document. The learned Trial Court has therefore, rightly rejected the application filed under Section 91 of the Cr.P.C. by the impugned Order dated 5.5.2017.

4. After perusing the entire record, this Court is of the considered view that, the Trial Court has not committed any error either in law or on facts while passing the impugned Order.

5. Petition is devoid of any merits and is accordingly rejected.

(A.S.GADKARI, J.)