

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2702 OF 2017**

M/s. Silver House
Through its Proprietor

L. S. Mathur

...Petitioner

Versus

Purvai Silvers & Anr.

...Respondents

Mr. Sandeep D. Shinde for the Petitioner

Mr. Vinod Chate, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 15th JANUARY, 2018

P.C. :

1 Heard learned counsel for the petitioner.

2 By this petition, the petitioner has impugned the order dated 19th June, 2017 passed by the learned Additional Sessions Judge-6, Nashik below Exhibit 26, by which the petitioner's application for leading additional evidence came to be rejected.

3 Learned counsel for the petitioner submitted that the said documents i.e. the income-tax returns for the year 2011-2012, 2015-2016 are crucial documents and that the said documents i.e. income-tax returns

would throw light on the falsity of the case. He submitted that despite the fact, that the said income-tax returns were given to the petitioner's Advocate, the same were not produced by him. He submitted that in the interest of justice, the application be allowed and the petitioner be permitted to lead additional evidence, only to bring on record the said documents i.e. income-tax returns for the year 2011-2012 and 2015-2016.

4 Perused the papers. The petitioner has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act by the trial Court. Being aggrieved by this judgment and order of conviction and sentence, the applicant filed an appeal in the Sessions Court, being Criminal Appeal No. 157 of 2014. It is at this stage, that the petitioner filed an application (Exhibit 26) and prayed that he be permitted to lead additional evidence i.e. to bring on record the income-tax returns for the financial year 2011-2012 and 2015-2016. In the application, the petitioner also offered to examine himself in evidence, as the documents were relevant for a just and proper adjudication. After hearing the parties, the learned Additional Sessions Judge was pleased to reject the said application.

5 Perused the impugned order. The learned Judge has rightly observed that the petitioner had an opportunity to examine himself and bring on record the said documents under Section 313 Cr.P.C, however, he failed to do so. Learned Judge has also rightly observed that there was no justifiable reason for the appellate Court to permit him to lead additional evidence. There is no infirmity in the impugned order warranting interference in writ jurisdiction.

6 Accordingly, petition is rejected.

REVATI MOHITE DERE, J.