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

CRIMINAL APPLICATION NO.1122 OF 2016.

Dr. Padmasinh Bajirao Patil	...	Applicant.
V/s.		
Central Bureau of Investigation	...	Respondent

Mr. Bhushan V. Mahadik, for the Applicant.
Mr. H.S. Venegaonkar, Special Public Prosecutor for
respondent No.1 CBI.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 23rd APRIL, 2018.

P.C. :

- 1] Heard learned counsel for the applicant and learned Special Public Prosecutor for the CBI.
- 2] By this application filed under Section 482 of the Code of Criminal Procedure, the applicant is challenging four orders dated 11th August, 2016, passed by Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai, below the applications at Exh Nos.1001, 1002, 1003 and 1004, in Sessions Case No.1146 of 2013.
- 3] All these four applications were filed by the applicant for directing the prosecution to produce certain documents.
- 4] The applicant herein is original accused No.1 in the

Sessions Case, facing the trial for the offences punishable under Sections 302 read with Section 34, 109 of the Indian Penal Code and Section 25 (3) and Section 27(5) of the the Indian Arms Act.

5] The submission of learned counsel for the applicant is that prosecution has while recording the examination-in-chief of the witness No.76 Smt. Anandibai Bhupalsing @ Pawan Raje Nimbalkar, who is the wife of the deceased, brought on record several facts, including she being the Chairman of the Osmanabad District Central Co-operative Bank Ltd., and also about the office which she was holding. In the cross examination, therefore, learned counsel for applicant has confronted the witness with several documents which were produced by the prosecution. However, she has not admitted those documents, but has given evasive replies by stating that she does not remember whether she has signed those documents and she cannot answer those questions unless she is shown the original documents. Therefore, the applicant was constrained to file four applications seeking direction for production of various documents.

6] It is urged that application at Exh.1001 was filed for production of the documents, F.I.R. Chargesheet in respect of loan transactions of the

(a) Om Jay Sai Infra Impex Pvt.Ltd.

(b) Heramb Infrastructure Ltd.

(c) Anadi Manufacturing Co.Ltd.

(d) Lamodar Infracture Ltd

7] Application at Exh.1002 was filed for production of documents seeking direction to Collector, Osmanabad to produce the following documents:-

- i. Show cause notice issued to Pavan Rajenimbalkar for non renewal of terms licence.
- ii. Reply dated 21.12.2001, given by Pavan Rajenimbalkar.
- iii. Order rejecting renewal of term licence.

8] Application at Exh.1003 was filed seeking direction to the Principal Secretary, Maharashtra Legislature, Vidhan Bhavan, Mumbai, to produce Certified copy of transcripts of the Assembly and council proceedings recorded in the House in the year 2002 in respect of Home Trade Scam.

9] Application at Exh.1004 was filed seeking direction to the Administrator of Terna Shetkari Sahakari Sakhar Karkhana, Osmanabad to produce following documents :-

1. Attendance register and proceeding books of meetings of Board of Directors for the period from January 2007 to March- 2016.

2. Attendance register for the period from April, 1996 to December, 2002.
3. Resignation letters from 5 Directors addressed to Chairman dated 13.02.2010.
4. Inward register for the period 2007-1016.
5. Audit reports for the period 2006-7 to 2009-10.
6. Audit reports for the period 2011-12 to 2013-14.
7. Stock Register of Sugar Molassers, baggage, RS, SDS, on a yearly basis from 2006-2017.
8. Resignation letters of Directors in April, 2014.
9. Account details filed at the time of opening Pavanraje Nagri Credit Society alongwith bank statements from date of opening till 2016.
10. Letter dated 04.12.2015 by RJD (Sugar) Nanded sent to Chairman.
11. Order dated 14.10.2015 passed by Minister for co-operation Maharashtra Government sent to Chairman.
12. Notice dated 28.06.2002, issued under Section 83 of MCS Act, 1960.
13. Register of movable and immovable property.
14. Applications filed by factory for extension of term of

board of Directors from the year 2012.

15. Records of distillery from the year 1995 till March, 2016.

16. Board Resolution dated 08.05.2000 for operation of ODCC Bank Account.

17. Recent photographs of plant, machinery, mill etc. of Terna SSK ltd.

10] According to learned counsel for the applicant, trial court should have allowed these four applications for production of documents, as the documents called for are relevant. It is urged that the trial Court has rejected these applications, mainly on the ground that it is delaying tactic adopted by the applicant and secondly on the ground that the applications were premature, as prosecution has yet to close its evidence, the applicant accused cannot apply for attendance of witness or production of documents at this stage.

11] The submission of learned counsel for the applicant is that, if the documents are not allowed to be produced on record, at this stage, the applicant cannot confront the witness with those documents and cannot cross examine the witness effectively in the absence of those documents. It is going to cause prejudice to the applicant in his defence and therefore, the trial Court should have allowed these applications instead of rejecting the same.

12] Per contra, learned Special Public Prosecutor for CBI has supported the impugned order passed by the trial Court, by pointing out to the provision of Section 91 of Code of Criminal Procedure and also relying upon the judgment of the Hon'ble Supreme Court in the case of *State of Orissa -vs- Debendra Nath Padhi [(2005) 1 SCC 568]*.

13] At the outset itself, it has to be stated that the trial Court has rightly rejected these applications as at this stage they are premature. As held by the Apex Court, in the case of *State of Orissa -vs- Devendra Nath Padhi (supra)*, the entitlement of the accused to seek production of documents under Section 91 ordinarily would not come till the stage of defence. Hence, at this stage when the evidence of prosecution witness is being recorded, such applications for production of the documents, are not warranted unless some exceptional circumstances are made out. However, all the four applications filed by the applicant for direction to produce such documents are conspicuously silent about it. It also cannot be said that these documents are relevant in the context of case in which the applicant is facing trial for the offence punishable under Section 302 of the Indian Penal Code. The relevancy of these documents is not clearly made out. For production of these documents, requisite condition laid down under Section 91 of Code of Criminal Procedure is also also not made out. The said section contemplates that such

documents must be necessary or desirable for the purpose of investigation, inquiry, trial or other proceeding.

14] In view thereof, no fault can be found in the impugned order passed by the trial Court. Hence the Application being without any merits stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]