

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

CRIMINAL WRIT PETITION NO.3571 OF 2016

Mr. Hatim Fidaali Lala

... Petitioner

Vs

Mr. Bhavesh Chandrakant Gandhi & Anr.

... Respondents

Ms. Gulnar Mistry i/b. Mr. Yogesh B. Dandekar for the Petitioner.

Mr. Yogesh Dabke, APP, for the Respondent No.2 – State.

Mr. Bhavesh C. Gandhi for the Respondent No.1 in person present.

CORAM : REVATI MOHITE DERE, J.

DATE : 06.02.2018

P.C. :

1. By this petition the Petitioner has impugned the order dated 27.04.2016 passed by the learned Special Judge, City Civil Court, Greater Mumbai, only with respect to certain observations made in para 11 of the said order.

2. The learned counsel for the Petitioner submits, that although the learned Special Judge, was pleased to reject the Miscellaneous Application No. 463/2016, filed by the Respondent No.1, the observations made in para 11 were uncalled for and were contrary to the facts on record. She submits that the observation made by the learned Judge, that 'the bank letters are already on record which are undisputed', is incorrect,

inasmuch as, the Petitioner has disputed the bank letters as well as the bank statements. Learned Counsel for the Petitioner further submits that because of the stay granted by this Court vide order dated 25.10.2016, the Appellate Court is unable to proceed with the hearing of the appeal.

3. Perused the papers and the impugned order dated 27.04.2016. It appears that the Petitioner has disputed the bank letters and the bank statements. In this light of the matter, the observations of the learned Judge in para 11 are incorrect, to that extent. Be that as it may, suffice to state that the learned judge to proceed with the appeal which is pending before him on its own merits, uninfluenced by the observations made in para 11 of the order dated 27.04.2016.

4. Petition is allowed and disposed of on the aforesaid terms.

5. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)