

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

WRIT PETITION NO. 5263 OF 2017

Aditya Natarajan

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. H. Salgeokar i/by Tejas Luniya for the Petitioner.

Mr. Amit Palkar, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 10th September, 2018

P.C.:

1. By the present petition under Article 227 of the Constitution of India the petitioner has impugned Order dated 30.11.2017 passed below Exhibit 48 in CC No. 346/PS/2010 .

2. The petitioner is an accused in CR No.12/2010 registered with Worli Police Station under Section 279, 338, 337 and 427 of the Indian Penal Code. After completion of investigation the police submitted charge sheet which has been culminated into C.C. No.346/PS/2010 .The evidence of the said case was being recorded by the learned Magistrate and the Investigating Officer during the course of his testimony filed an application

below Exh.45 for production of a video clip uploaded on “You Tube” pertaining to the incident in question. The petitioner objected for production of the said video clip by filing his written objection below Exh.48. The learned Metropolitan Magistrate by the impugned Order was pleased to over rule the objection raised by the petitioner and allowed the prosecuting agency to produce the said video clip uploaded on You Tube and copies on a compact disc, as evidence.

3. The record indicates that, the Investigating Officer is not the author or creator of that particular video clip. In his application below Exh.45 he has categorically stated that, he had down loaded the said video clip on his mobile uploaded on the said Internet site "You Tube" and thereafter copied it on a compact disc and produced it before the Trial Court.

The learned Single Judge of this Court (Shri. G. S. Patel, J.) in Testamentary Suit No.82/2013 in its Order dated 3rd August 2016 in Para 7 has held as under:-

“As to the video clip, it is inadmissible in evidence simply on production by the Defendant, for the Defendant is not the author or creator of that video clip. The fact that it was uploaded on You Tube does not mean its contents are true. Uploads and downloads do not establish the

correctness of contents”.

In view of the above, the said video clip produced by the Investigating Officer below Exh. 45 is inadmissible in evidence and cannot be relied upon.

5. In view thereof, the impugned order dated 30.11.2017 passed below Exh. 48 in CC No.346/PS/2010 is hereby quashed and set aside.

6. Petition is allowed in the aforesaid terms.

(A.S.GADKARI, J.)