

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

**WRIT PETITION NO. 816 OF 2019**

Mr.Vijay Shamsunder Prabhu

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

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Mr.Kunal D. Ambulkar for the Petitioner.  
Mrs.M.R.Tidke, APP for Respondent No.1-State.  
Mr.H.S.Venegaokar for Respondent No.2.

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**CORAM : MRS. MRIDULA BHATKAR, J.  
DATE : 11 APRIL 2019**

**P.C.:**

1. This petition is directed against the order dated 1<sup>st</sup> February, 2019 passed by the learned Special Judge (CBI), Court Room No. 53, Greater Bombay thereby exhibiting and admitting the Forensic Voice Examination Report dated 5<sup>th</sup> February, 2007 in CBI Special Case No. 40 of 2008.
2. Heard submissions of both the sides.
3. On 15<sup>th</sup> November, 2018, the prosecution had moved an application under section 293 of the Code of Criminal Procedure (for short, "the Cr.P.C") for directly exhibiting the Forensic Voice Examination Report so it

can be read in the evidence under section 293 of the Cr.P.C. The petitioner/accused has objected to exhibit and admit the said report by submitting a written reply dated 14<sup>th</sup> January, 2019. In the said reply, he has mentioned that an expert is required to be examined. Despite this objection of the petitioner/accused, the learned Judge accepted the said report, which is at exhibit 146, in CBI Special Case No. 40 of 2008.

4. The said document i.e., report cannot be read in evidence unless the contents of document are proved by calling an expert by the prosecution. While exhibiting the document, the Court should have taken a note that the document is exhibited subject to prove all the contents of document or should not have exhibited the said document unless it is proved through a competent witness. Now as it is exhibited as 146, the prosecution to prove the contents of documents otherwise it cannot be read in the evidence.

5. With this, Writ Petition is allowed and accordingly disposed of.

**(MRIDULA BHATKAR, J.)**