

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4985 OF 2019

Sushil Kanubhai Shah	]	Petitioner
Vs.		
State of Maharashtra and another.	]	Respondents

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Mr. Abad Ponda a/w Mr. S.H. Jariwala i/b Auroma Law, for the Petitioner.

Mr. P.H. Gaikwad-Patil, A.P.P for the Respondent No.1- State.

Mr. Dilip Nevatia, Director of Respondent No.2, in person.

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CORAM : REVATI MOHITE DERE, J.

DATE : 19TH NOVEMBER, 2019.

P.C. :

Heard learned Counsel for the parties.

2. By this Petition, the Petitioner has impugned the order dated 27th October, 2017 passed by the learned Metropolitan Magistrate, Court No.62, Dadar, Mumbai, to the extent, that it exhibits Form No.32 i.e Exhibit 62.

3. Learned Counsel for the Petitioner submits that the learned Metropolitan Magistrate be directed to decide the said exhibit i.e Exhibit 62, subject to the objection raised by the Petitioner, at the final stage at the time of final judgment. Learned

Counsel for the petitioner relied on the decision of the Apex Court in the case of **Bipin Shantilal Panchal Vs. State of Gujarat, 2001 AIR (SC) 1158**, in support of his submission. He also relied on the arguments of the Respondent No.2- Mr. Dilip Nevatia as recorded in the impugned order i.e when an objection is raised during the evidence taking stage with regard to the admissibility of any material, the trial Court can note such objection and mark the objected documents tentatively as exhibit, subject to the objection being decided at the final stage at the time of final judgment.

4. Mr. Nevatia, respondent No.2 (original complainant) appears in person and has no objection if the said document i.e Exhibit 62 is exhibited subject to objection, and if the said objection is decided at the final stage at the time of final judgment.

5. Perused the papers. The applicant herein had preferred an application (Exhibit 50) for objecting giving any exhibit number to a copy of Form No.32. The learned Metropolitan Magistrate, Court Room No.62, Dadar, Mumbai overruled the said objection i.e Exhibit 50 filed by the petitioner and exhibited Form No.32, as Exhibit 62.

6. Having regard to what is stated abovesaid, Form No.32, which is exhibited as Exhibit 62 will be decided subject

to the objection raised by the applicant at the final stage of the final judgment by the trial Court, un-influenced by the impugned order dated 27th October, 2017. It is made clear that this Court has not considered the merits of the case and the learned Judge to proceed with the same on its own merits in accordance with law. The Petition is accordingly disposed of.

7. All concerned to act upon the authenticated copy of this order.

[REVATI MOHITE DERE, J.]