

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 48 OF 2019

Gopal s/o Sohanlal Chandak V/s Mohd. Sajid s/o Abdul Samad

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri P.R. Agrawal, counsel for the petitioner.

CORAM: ARUN D. UPADHYE, J.

DATE: 04-02-2019.

1] Heard.

2] Shri P.R. Agrawal, learned counsel for the petitioner submitted that learned Magistrate while allowing the application filed by the complainant, permitted to examine the bank witness by an order dated 13.03.2018. Learned counsel further submitted that the complainant cannot be permitted to fill up the lacuna in the evidence, as his matter is posted for argument. He, also relied upon rulings reported in *Rajendra Prasad V/s Narcotic Cell* reported in (1999) 6 SCC 110 and *Kamlesh Kumar V/s State of Bihar and another* reported in 2014 ALL MR (Cri) 348 (S.C.) in support of his submission. He, therefore, prayed that writ petition be allowed and the impugned order be quashed and set aside.

3] Considering the submissions of the learned counsel for the petitioner, I have perused the impugned order, as well as documents placed on records, I am of the

considered view that the learned Magistrate was justified in allowing the application in part and permitting the complainant to examine the Bank-Witness, as he recently received the documents from the Bank. Learned Magistrate was also justified in not permitting the complainant to re-examine him. The accused will get the opportunity to cross-examine the witness. No prejudice will cause to him, if the said witness is examined by the complainant. The rulings relied by the learned counsel for the petitioner are not applicable to the present matter. No need to issue notice to the respondent.

4] The petition filed by the petitioner under Section 227 of the Constitution of India is devoid of any merit and liable to be dismissed.

Hence, I proceed to pass following order:

ORDER

1] The Writ Petition No. 48/2019 is hereby dismissed.

2] No order as to costs.

JUDGE