

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 328 OF 2017**

Jai Pratap Maniar and anr. ...Petitioners

Versus

Arvind Laxmidas Kapadia and anr. ...Respondents

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Mr. Ganesh Bhujbal for the Petitioners.

Mrs. M.R. Tidke, APP for the State.

Mr. Jatin P. Shah a/w Ms. Snehankita Munj a/w Shraddhav Kamble
for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATE : 21 July 2022.

P.C. :-

1. This Petition takes exception to the order dated 21.09.2016 passed by Metropolitan Magistrate, Mumbai below Exhibit-58 in Criminal Case No. 1015/SS/2007.

2. The Respondent No. 1 herein has filed a complaint case against Napha Pharmaceutical Pvt. Ltd. (for short Company) and it's Managing Director Shri Pratap H. Maniar for the offence punishable under Section 138 of the Negotiable Instrument Act. During the pendency of the said complaint on 24.02.2016 Managing Director Shri Maniar expired, the Respondent No. 1, thus, moved an

application under Section 305 of the Cr.P.C. to allow them to bring on record the present Petitioners, who are sons of Pratap Maniar and looking after the affairs of the Company, as representatives of the Company. The said application at Exhibit-58 came to be allowed by the order impugned.

3. I have heard the learned counsel for the parties. The trial Court allowed the said application at Exhibit-58 by one line order 'No say filed, hence it is allowed'.

4. In my view, considering the facts and circumstances the trial Court ought not to have allowed the application mechanically. It further appears that the trial Court directed the Respondent No. 1 to add the Petitioners as accused.

5. Considering the facts and circumstances, the order impugned is set aside. Petitioners are permitted to file reply to the application at Exhibit-58 within four weeks from today. The trial Court thereafter shall decide the application at Exhibit-58 afresh on its own merits.

6. The Petition is disposed of. All contentions of the parties are kept open.

(N.R. BORKAR, J.)