

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 5717 OF 2021**

Rajesh Yashwant Ambre

... Petitioner

V/s.

The State Of Maharashtra

... Respondent

None for Petitioner.

Mrs. J. S. Lohakare APP, for Respondent-State.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 23rd NOVEMBER, 2022.****PC. :**

1. By the present Petition, Petitioner intends to establish his defence that, he was either present or not present at location on 12th July, 2018 at about 8.30 p.m..

2. Petitioner will be at liberty to file such Application before Trial Court if so advised and as may be permissible under the provision of law. It is the settled position of law that, defence of Accused being disputed question of fact can not be tested in the Petition under Article 226 of the Constitution of India.

3. Petition being *dehors* of merits is accordingly disposed off with aforesaid liberty.

[PRAKASH D. NAIK, J.]**[A.S. GADKARI, J.]**