



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1585 OF 2024

ABDULGANI MIRASAB UJEDE
VERSUS
THE STATE OF MAHARASHTRA

Mr. F. K. Patel, Advocate for the petitioner
Mr. S. P. Sonpawale, APP for the respondent/State

CORAM : S. G. MEHARE, J.

DATE : 18th SEPTEMBER, 2024

PER COURT :-

1. Heard the learned counsel for the petitioner and the learned APP for the State.
2. Issue notice to the respondents. Learned APP waives service of notice on behalf of the respondent/State.
3. The petitioner has impugned the order of learned Chief Judicial Magistrate, Latur dated 12/07/2024 passed below Exhibit 50 in R.C.C. No. 641/2015. By this order the C.J.M. allowed to produce the document. The document was produced by one of the witnesses who entered the witness box.
4. The learned counsel for the petitioner would submit that allowing such document prejudice the interest of the petitioner/accused and no such document is to be produced at

any time except following the procedure under Section 173(8) of the Code of Criminal Procedure (for short 'Cr.P.C.'). He relied upon on the case of *Bhagyashree Prashant Wasankar Vs. The State of Maharashtra, MANU/MH/1765/2021*.

5. The learned APP would submit that mere production of any document by any of the persons having concern with the matter does not mean that the document is admitted in evidence. The procedure under Section 173(8) of Cr.P.C. is different from the grievance of the petitioner put before the Court. The rights of the petitioner as regards the admissibility of any such document or evidence have not been affected. Therefore, the petition is devoid of merit.

6. Perused the impugned order.

7. The learned CJM has specifically observed that the documents produced are relevant and the accused had opportunity to put his defence. It itself indicates that the Court allowed only the production of the document. This Court agrees with the learned CJM that the petitioner has a right to put his defence. So far as Section 173(8) of Cr.P.C. is concerned, it is the power of the Investigating Officer for the additional evidence, oral or documentary, if he obtains in further investigation after filing the charge-sheet. The provision of Section 173(8) of Cr.P.C. is

specific. This is a different matter. The witness who enter the witness box had some additional material and he was intending to place it on record. He was assisting the Court to arrive at proper conclusion. Whether such document is relevant or admissible, is a matter of merit. Everybody having concerned with the trial has a right to put the defence, raise the objection about the admissibility of evidence. Therefore, this Court does not find any substance in this petition.

8. Hence, the petition stands dismissed at the admission stage.

(S. G. MEHARE, J.)

ssp