

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No.4512 of 2025

HR & UB Realtors Pvt. Ltd. ... Petitioners
V/s.
The State of Maharashtra and others. ... Respondents.

Mr. Mihir Gheewala a/w. Shil Namavati and Dev Bhankharia i/b. Lexicon Law Partners	Advocates for the Petitioners.
Mr. Kunal Kumbhat a/w. Karthik Pillai, Ranjitha Malake i/b. Ms. Sunanda R. Kumbhat	Advocate for Respondent No.2.
Mr. H.J. Dedhia	APP for the State.

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CORAM : S.M. MODAK, J

DATE : 03rd September 2025.

P.C. :

Heard learned Advocate for the Petitioner-Accused and
learned Advocate for Respondent No.2.

2. The order which is challenged in this petition is the order of
issuing summons to Registrar of Firms, Bandra. It is passed by the
Court of Additional Chief Judicial Magistrate, 5th Court, Dadar,
Mumbai on 28th May 2025 in CC No.126/CW/2016. The summons
is issued to produce the documents which are described in Para No.2
of the impugned order. This order came to be passed in the private
complaint filed by Respondent No.2. Copy of the said complaint is
on Page No.34. It is for the offences under Section 182, 406, 416,

418, 420, 423, 424, 426, 441, 465, 468 and 471 r/w. Section 34 and 120-B of Indian Penal Code.

3. The case is fixed for recording evidence before the charge. The Complainant has not yet entered into witness box. Whereas prior to entering into witness box he has applied for issuing summons to Registrar of Firms. The summons is issued only for the purpose of production of documents and not for giving evidence by the representative from the Registrar of Firms' Office. Today this is clarified by learned Advocate for Respondent No.2.

4. Two submissions are made on behalf of the Petitioner-Accused:-

(a) **One** is on the basis of provisions of Section 135 of the Indian Evidence Act. It talks about the order of examination of witnesses. According to him the Complainant ought to have entered into witness box prior to issuing summons to Registrar of Firms. At this stage it can only be said that it is a choice of the Complainant that is to say whether to enter into witness box first or to give evidence after examination of another witness.

(b) **Second** submission is made about non-compliance of provisions of Section 294 of Cr.P.C. According to him it is mandatory to give notice under Section 294 and if the notice would have been given, the Petitioner could have admitted those documents whereas according to learned Advocate for Respondent

No.2, the stage for giving of notice under Section 294 has not arisen because those documents in a original form are not before the trial Court. In fact the documents which are available before the trial Court are the copies which are obtained as per the provisions of Right to Information Act.

5. If we read the provisions of Section 294 of the Cr.P.C., such notice is given and if the documents are admitted, there is no need to prove those documents. It can be in respect of genuineness of such documents and so on. Today it is clarified on behalf of the Petitioner that the documents which are already part of the record of the trial Court can be admitted on behalf of the Petitioner. Because submission is the Petitioner, in fact, is relying upon those documents and disputing the allegation of forgery made by Respondent No.2- Complainant in complaint. **According to learned Advocate for the Petitioner** if these documents are admitted, there is no need to call their original from the office of Registrar of Firms. Whereas there was insistence on behalf of Respondents for production of document by the Registrar of Firms for the reason there may be an occasion for the Complainant to examine these documents through State Examiner of hand-writing expert. It is also submitted that private expert's opinion is obtained and it is a part of the record of the trial Court.

6. It is true the provision for giving of notice as per the provisions of Section 294 of Cr.P.C. is made for the purpose of curtailing delay

caused in examining the witnesses and proving those documents. If the Petitioner is admitting the documents which are described in Para No.2 of the impugned order, this Court feels that there is no need to issue summons to Registrar of Firms.

7. Let the Petitioner to admit those documents by giving a **purshis** before the trial Court and once it is done, the trial Court is at liberty to consider those documents at the time of appreciation of evidence. The documents which are filed are the copies of copies obtained as per Right to Information Act. The Respondent is directed to file copies obtained as per Right to Information Act and then Petitioner may file pursis.

8. Now the question remains about examination of these documents through State Examiners of hand-writing. It is true he may require the original documents. If the Respondent No.2-Complainant applies for examination of those documents, at that stage, it can only be said that trial Court is at liberty to decide that prayer after hearing both the sides and as per the merits. If such request is allowed, then Respondent No.2 is at liberty to ask for necessary directions to Registrar of Firms to produce those documents in original form. In view of the above, let the trial Court to recall the summons.

9. With these observations, the writ Petition is disposed of.

(S.M. MODAK, J.)