

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

Criminal Writ Petition No. 4575 of 2025

Shah Alam Khan and anr. ... Petitioners
V/s.
State of Maharashtra and anr. ... Respondents

None for the Petitioner.	
Mr. Ashok S. Gawai	APP for the State.

CORAM : S.M. MODAK, J

DATE : 02nd September 2025.

P.C. :

When the matter is called out, no one is present on behalf of the Petitioners-accused. Copy of the Petition is not served on the office of Public Prosecutor.

2. I have gone through the petition. The Petitioner-accused has filed an application before the trial Court for dismissing the complaint in view of not producing a certificate as contemplated under Section 65-B of the Indian Evidence Act. The application is on Page-14. There is one more application on Page No.24 filed on the basis of provisions of Section 251 of the Code of Criminal Procedure. The prayer is for dismissing the complaint. I have read the order dated 19th June 2024 passed by then Metropolitan Magistrate, Bandra (Page No.18). After hearing both the sides, the

said application was rejected. It was filed after recording of plea. The grievances are more or less same.

3. When the impugned order is perused, what I find is Petitioner has made grievance that certain reports filed along with complaint were not annexed by certificate as per Section 65-B of Indian Evidence Act. Contention is raised that the plea recorded on Page-22 is defective. Question No.3 is “Do you plead guilty to the charge?” The answer recorded is Yes/No. The submission is the Petitioner has not pleaded guilty, however, it is not recorded properly. The learned Magistrate has rejected that contention in Para No.7 of the impugned order for the reason it will not cause prejudice to the accused.

4. After going through the record I do not find any merit in the petition. The contention about not filing certificate under Section 65-B of the Evidence Act can be raised while cross-examining the concerned witness. So far as defect in the plea will not be so vital as to dismiss the complaint. This is not such kind of irregularity which will vitiate the proceeding. Even the learned Magistrate can record the fresh plea of the accused by asking him whether he pleads guilty or not?

5. With these observations, I find no merit in the petition. It is dismissed.

(S.M. MODAK, J.)