

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

CRIMINAL WRIT PETITION NO. 4949 OF 2025

Suman Bhaurao Bhosale and ors. ...Petitioners

Versus

Sunil Bapurao Bhosale and ors. ...Respondents

Mr. Pramod Kale, for the Petitioners.

Mr. P. P. Malshe, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED: 9th OCTOBER, 2025

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SUBHASH
KULKARNI

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Oral Order:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 17th July, 2025 passed by the learned Magistrate on an application (Exhibit-109) to recall PW3 for further evidence and prove the Power of Attorney, which was filed before the Civil Court in RCS No.6050/2000. The learned Magistrate was of the view that, the petitioner was not diligent in adducing evidence in respect of the said Power of Attorney and the application for recall of PW3 and production of the said Power of Attorney would cause irretrievable prejudice to the accused as the complaint is of the year 2000.
3. I have perused the averments in the complaint.

4. The gravamen of indictment against the accused in paragraph 5 of the complaint appears to be that the accused No.2 had purportedly executed the Power of Attorney in favour of accused No.3 at Mumbai on 15th September, 1999 and, subsequently, the said Power of Attorney was shown to be notarized before a Notary Public at United States of America (USA).

5. The complainant had ample opportunity to seek the production of the Power of Attorney and prove it in evidence. As the application was preferred when the complaint was listed for final arguments, the learned Magistrate has correctly exercised the discretion not to recall PW3 for further evidence and direct the production of Power of Attorney from the record of the Civil Court.

6. In any event, there is a presumption as to the genuineness of the Power of Attorney executed before and authenticated by the Notary Public, under Section 85 of the Evidence Act.

7. Hence, the application stands dismissed.

[N. J. JAMADAR, J.]