



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION (WP) NO. 896 OF 2023

Ashwin S/o. Arun Morey

.Vs.

State of Maharashtra, through PSO PS Ambazari, Nagpur and another

WITH

CRIMINAL WRIT PETITION (WP) NO. 893 OF 2023

Arun Sampatrao More

.Vs.

State of Maharashtra, through PSO PS Ambazari, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr P. R. Patil, Adv. h/f. Mr R. P. Masurkar, Advocate for the petitioner in WP No. 896 of 2023

Mr. R. R. Bagade, Advocate for respondent No.2 in WP No.896 of 2023

Mr S. W. Sambre, Advocate for petitioner in WP No. 893 of 2023

Mr N. R. Rode, APP for the respondent/State in both petitions

CORAM : ANIL S. KILOR, J.

DATED : MARCH 07, 2025.

Heard.

2. In both these petitions, a challenge is raised to the rejection of an objection, raised by the petitioners, to exhibit certain documents. A serious objection is to exhibit a document namely agreement to sell dated 08.02.2001 executed between Bholanath Charan Shahu and Arun Sampatrao More.

3. It is submitted that the xerox copies were exhibited without verification made from the original documents. It is further submitted that the original documents have been lost

from the police station, which was seized by the police in Crime No. 405 of 2005 registered with police station Ambazari, Nagpur.

4. While rejecting the objection, the learned trial Court has observed thus:

“It appears from record that prosecution has filed application Exh.60 u/sec.65 of Evidence Act for permission to lead secondary evidence. On 13.03.2023 detailed order passed below Exh.60, wherein it has held that there is not need to file application for permission to file secondary evidence and prosecution will get opportunity to make out grounds under section 65 of the Evidence Act at the time of leading evidence. It appears from evidence of PW-1 that prosecution has made out ground that the said documents were lost at the hands of police. Moreover, it is settled position of law that exhibiting of document is only for the purpose of identification. So far as evidentiary value of the said document can be decided at the stage of final hearing. Moreover, accused will get opportunity to cross-examine the witness on the said documents. So no prejudice would be caused to the accused. Hence in the interest of justice the said documents are exhibited as above.”

5. It is evident that the learned trial Court has categorically observed that it is a settled position of law that exhibiting of document is only for the purpose of

identification. Since, the said finding is just and proper in view of the settled law that, mere exhibiting a document by itself cannot lead to a presumption that the recitals contained therein are also correct, the petitions deserve to be dismissed.

6. In that view of the matter, since I do not find any perversity in the order rejecting the objection raised by the petitioner to exhibit the documents in question, the writ petitions are hereby **dismissed**.

(ANIL S. KILOR, J.)

Namrata