



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 79 OF 2026

- 1] **M/s Ascent Ventures**
A Partnership Firm registered U/Partnership Act,
having it's Office at Plot No. G-8, First Floor,
Town Center, Above Dwarkadas Shamkumar Showroom,
Opp. YSK Hospital, N-6 Aurangabad.
Through Petitioner No.2
 - 2] **Sameer Ramanlal Bhandari**
Age : 46 Yrs. Occupation : Business,
R/o. Plot No. G-8, First Floor, Town Center,
Above Dwarkadas Shamkumar Showroom,
Opp. YSK Hospital, N-6 Aurangabad
 - 3] **Darshana Sameer Bhandari**
Age : 44 Yrs. Occupation : Business,
R/o: As above
 - 4] **Ramanlal Chunnilal Bhandari**
Age : 85 Yrs. Occupation : Business
R/o: As above
- ... *Petitioners*

VERSUS

- 1] **The State Of Maharashtra**
High Court of Bombay,
Bench at Aurangabad.
 - 2] **Dr. Sachin Gopalrao Saoji**
Age : 53 Yrs. Occupation : Doctor,
R/o: 32, Shiniketan Colony, Aurangabad
Dist : Aurangabad
- ... *Respondents*

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- Mr. S. S. Patil, Advocate for the Petitioners
- Ms. P. J. Bharad, APP for Respondent No. 1 - State
- Mr. P. F. Patni, Advocate for Respondent No. 2

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CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : 23.03.2026

PRONOUNCED ON : 16.04.2026

JUDGMENT :

1. The petitioners have filed the present petition seeking quashing and setting aside of the order dated 14.11.2025 passed below Exh. 36 in S.C.C. No. 7117 of 2019 by the learned 11th Additional Chief Judicial Magistrate, Aurangabad, and for allowing Exh. 36 in the said proceedings.

SUBMISSION OF THE PETITIONERS :-

2. Learned counsel for the petitioners submits that the accused have filed an application under Section 294 of the Code of Criminal Procedure seeking permission to produce certain documents and for a direction to the complainant to admit or deny the said documents. It is submitted that the transactions between the parties pertain to a registered sale deed dated 25.07.2012 in respect of a portion of land bearing Gat No. 15 situated at Fatehpur, Tq. and Dist. Aurangabad. The said sale deed has been deliberately suppressed by the complainant. It is further submitted that there was a clear assurance given by the complainant that if the area of the land purchased is found to be less than what was agreed upon, the complainant would proportionately reduce the price of the land. The said sale deed dated 25.07.2012 was subsequently corrected vide correction deed dated 05.09.2014. The petitioners, therefore, filed an application seeking permission to produce the following documents:-

- A. Sale Deed dated 25.07.2012
- B. Correction Deed dated 05.09.2014
- C. Revised Development Permission dated 18.10.2012
- D. Revised Development Permission dated 28.09.2023
- E. TILR Map showing revised demarcated layout on Gat No. 14
- F. Divyamarathi Newspaper dated 19.05.2014

3. It is submitted that the aforesaid documents are relevant for the defence of the petitioners and would assist them in substantiating their defence. It is further submitted that though the said documents were not filed earlier, the petitioners ought to be permitted to place them on record.

4. Learned counsel further submits that in view of Section 294 Cr.P.C., a direction ought to be issued to the complainant to admit or deny the said documents. It is submitted that similar applications have been filed in all the four complaints instituted by the complainant under Section 138 of the Negotiable Instruments Act.

SUBMISSION OF THE RESPONDENTS :-

5. The complainant has filed a say opposing the application under Section 294 Cr.P.C., contending that the same is not tenable in law. It is submitted that Section 294 Cr.P.C. only contemplates admission or denial of documents and does not provide for production of additional documents. Hence, the application deserves to be rejected.

6. The learned counsel for the respondent further submits that

the present complaint was filed in the year 2019 and that, for the first time, the petitioners have now raised the issue of reliance upon the sale deed and correction deed, only with an intention to protract the proceedings. It is further submitted that an earlier criminal case filed by the complainant in the year 2017 for dishonour of seven cheques came to be compromised between the parties, pursuant to which the petitioners issued further cheques towards settlement. Out of the said 13 cheques, four cheques of Rs. 8,00,000/- each were dishonoured, and therefore, the present complaint, along with three other complaints, came to be filed.

7. Thus, the learned counsel for the respondent submits that the dishonour of the present cheques pertains to the compromise arrived at between the parties on 16.09.2017, after the initial complaint under Section 138 of the Negotiable Instruments Act was filed in the year 2017 for dishonour of seven cheques, one of which is S.C.C. No. 4558 of 2017. It is, therefore, submitted that the documents sought to be brought on record have no relevance to the adjudication of the present complaint, which pertains solely to the dishonour of the cheques issued pursuant to the said compromise dated 16.09.2017.

8. Learned counsel for the respondent further submits that Section 136 of the Evidence Act confers discretion upon the Court to permit parties to lead evidence only if the same is relevant. It is

submitted that the cheques in question were issued in pursuance of a compromise arrived at on 05.09.2017, and therefore, the sale deed, correction deed, and revised maps sought to be produced are not relevant to the present proceedings. It is thus submitted that the learned Trial Court has rightly exercised its discretion in rejecting the application filed by the petitioners.

9. Learned counsel for the respondent further submits that Section 136 of the Evidence Act is analogous to Order XVIII Rule 4 of the Code of Civil Procedure, which also provides that evidence may be permitted only if it is found to be relevant. It is submitted that the learned Trial Court, having found that the documents sought to be produced are not relevant, has rightly rejected the application. Learned counsel further relies upon the judgment in ***Rajendra Singh Chhatrasal Singh Kushwaha Vs. Jitendra Singh Rajendra Singh Kushwah; 2013 (6) Mh.L. J., 802*** to contend that the Court cannot permit parties to lead irrelevant evidence or evidence not related to the issues, as set out in the affidavit filed by way of examination-in-chief in lieu of oral evidence.

10. Learned counsel for the respondent further relies upon the judgment in ***Yogendra Bhagatram Sachdev vs. State of Maharashtra and another, reported in 2003 STPL 3392 (Bom)***, to submit that the evidence sought to be led by the defence is an attempt to improve its

case, and therefore, such permission to lead additional evidence cannot be granted at the appellate stage.

11. In rebuttal, the petitioners have relied upon the judgment of the Bombay High Court in ***Geeta Marine Services Pvt. Ltd. and Another vs. State of Maharashtra***, reported in 2009 (3) BCR (Cri) 633, to demonstrate the scope and relevance of Section 294 Cr.PC. and its application in cases where the accused seeks to produce documents and requests the Court to direct the complainant to admit or deny the same.

12. Learned counsel for the petitioners has further relied upon the judgment of this Court in ***Sureshababu Dulappa Talbhandare vs. State of Maharashtra***, reported in 2011 ALL MR (Cri) 1515, to submit that the procedure under Section 294 Cr.PC. is mandatory and is required to be followed, and that failure to adhere to the said procedure may cause prejudice to the accused.

REASONING :-

13. I have perused the impugned order dated 14.11.2025 passed by the learned 11th Additional Chief Judicial Magistrate, Aurangabad in S.C.C. No. 7117 of 2019. A perusal of the said order indicates that the accused had filed an application at Exh. 34 seeking permission to produce certain documents along with a list of documents at Exh. 35. The order further reveals that the application at Exh. 34 has been

allowed and the production of the said documents has already been permitted by the learned Trial Court.

14. The learned Trial Court has considered the relevancy of the documents sought to be produced without addressing the other prayer made by the applicant, namely, for a direction to the complainant to admit or deny the said documents under Section 294 Cr.P.C. The Trial Court has unnecessarily entered into the aspect of relevancy and thereafter rejected the prayer of the petitioners to direct the complainant to admit or deny the said documents. The second prayer made by the petitioners, seeking reference of the said documents under Section 294 Cr.P.C., has not been considered at all. No reasons have been assigned as to why the documents, which have already been permitted to be brought on record by allowing Exh. 34 (application) and Exh. 35 (list of documents), cannot be put to the complainant in exercise of powers under Section 294 Cr.P.C.

15. Section 294 Cr.P.C. provides that the particulars of documents sought to be filed in Court must be included in a list, and the prosecution or the accused, as the case may be, shall be called upon to admit or deny the genuineness of each such document. The section lays down the procedure for determining when a document can be admitted in evidence or when it must be proved in accordance with law. In essence, whenever any document is filed before a Court by the

prosecution or the accused, it must be included in the list, and once included, the other party - the defence, the accused, or the State/Prosecution shall be called upon to admit or deny its genuineness.

16. Section 294 Cr.P.C. does not prohibit the filing of a document at a subsequent stage, either by the prosecution or by the defence. It only requires that any document sought to be produced on record shall be included in the list of documents, so that the other party is made aware of it. Once a document is included in the list, the other party shall be called upon to admit or deny its genuineness. It is, therefore, clear that a document may be filed even after the filing of a charge-sheet by the prosecution, or at any stage by the defence, provided it is included in the list.

17. It is evident from the record that the accused have already filed an application at Exh. 34, along with a list of documents at Exh. 35, which has already been allowed by the learned Trial Court. No reasons have been assigned by the Trial Court as to why the said documents cannot be put to the complainant, calling upon him to admit or deny their genuineness. The learned Trial Court has failed to take into consideration that, when the prosecution is called upon to admit or deny the documents, it is not necessary for the complainant to choose either option; he may admit or deny the same. The law

relating to the proof of such documents would then apply depending on whether the complainant admits or denies them. Merely calling upon the complainant to admit or deny the genuineness of such documents under Section 294 Cr.P.C. would, in my opinion, not cause any prejudice. The complainant still has the opportunity to challenge the admissibility of such documents, and merely putting the documents to the complainant does not amount to judicial determination of their admissibility.

18. The procedure under Section 294 Cr.P.C. was introduced to avoid unnecessary delay and remove obstructions in the speedy trial. It enables the prosecution or the accused to admit or deny the genuineness of documents at the outset in writing. Upon admission or indication of no dispute regarding genuineness, the Court is authorised to dispense with formal proof. In fact, once no dispute is indicated, proof of the document becomes a mere formality.

19. The Hon'ble Full Bench of the Bombay High Court in ***Shaikh Farid Hussainsab vs. State of Maharashtra***, 83 Bom LR 278, has held as follows:

“7. Section 294 of the Code is introduced to dispense with this avoidable waste of time and facilitate removal of such obstruction in the speedy trial. The accused is now enabled to waive the said right and save the time. This is a new provision having no corresponding provision in the repealed [Code of Criminal Procedure](#). It requires the prosecutor or the accused, as the case may be, to admit or deny the genuineness of the

document sought to be relied against him at the outset in writing. On his admitting or indicating no dispute as to the genuineness, the Court is authorised to dispense with its formal proof thereof. In fact after indication of no dispute as to the genuineness, proof of documents is reduced to a sheer empty formality. The section is obviously aimed at undoing the judicial view by legislative process.”

20. In my opinion, the learned Trial Court committed an error in rejecting the application solely on the ground of relevancy of the documents sought to be relied upon by the petitioner/accused, on the basis that the four cheques of Rs. 8,00,000/- each were issued after the parties had entered into the settlement. The production of the proposed documents had already been permitted by the learned predecessor of the Trial Court as per the order below Exh. 34. It is the choice of the accused to prove his defence by leading evidence which according to him is necessary.

21. The aforesaid view taken by the learned Trial Court is contrary to the provisions of Section 294 Cr.P.C., which mandates that if a document is included in the list, the prosecution or the accused, or their pleader, *shall* be called upon to admit or deny the genuineness of each such document. The word used is ‘shall’ and not ‘may’, leaving no discretion to the Trial Court to deny such a request.

22. It is well settled that whether a statutory provision is mandatory or directory depends upon several factors. The mere use of the word “shall” is not conclusive. Although “shall” generally

indicates a mandatory intent, the Courts, having regard to the context, have in certain cases interpreted it as directory. The context in which the word “shall” appears, if considered along with the object, purpose and scheme of Section 294 of the Code of Criminal Procedure, for which it was introduced, makes it clear that the word “shall” appearing in Section 294 indicates a mandatory intent and not a discretionary one. Section 294 has been introduced by the legislature with a view to avoid unnecessary consumption of time in trial and to facilitate expeditious proceedings. The provision confers a right upon the accused to waive objection and thereby save time. Similarly, the prosecution is also conferred with such a right to waive objection and expedite the trial.

23. The said provision mandates that the prosecution or the accused must admit or deny the genuineness of the document sought to be relied upon against them. Upon such admission, the Court is empowered to dispense with the formal proof thereof. However, mere admission of a document does not ipso facto determine its evidentiary value or relevance, which can be adjudicated by the Trial Court while deciding the case on merits. The plain and unambiguous language of Section 294 Cr.P.C. clearly indicates that calling upon the prosecution or the accused to admit or deny the genuineness of documents is mandatory and not discretionary. The word ‘shall’

denotes a mandatory obligation, whereas 'may' indicates permission, possibility, or discretion. This principle has been consistently recognized by the Courts.

24. Thus, taking into consideration that the proposed documents have already been permitted by the Trial Court as per the orders below Exh. 34 and Exh. 35 to be brought on record, there is no reason why the Trial Court should not have exercised its powers under Section 294 Cr.P.C. to call upon the complainant to admit or deny the genuineness of the said documents.

25. In my view, therefore, the impugned order is arbitrary and is thus liable to be quashed and set aside.

26. The observations made herein are *prima facie* in nature and are intended solely for the purpose of deciding the present writ petition. They shall not influence the Trial Court. The Trial Court shall independently examine the relevance of the documents brought on record, without being influenced by any observations made by this Court.

27. Hence, the following order :-

ORDER

A) The writ petition is allowed.

B) The impugned order dated 14.11.2025 passed below Exh. 36 in S.C.C. No. 7117 of 2019 is hereby quashed and set aside.

- C) The learned Trial Court is directed to call upon the complainant to admit or deny the documents in accordance with Section 294 Cr.P.C.
- D) Considering that the complaint is pending since 2019, the Trial Court shall endeavour to dispose of the same expeditiously, preferably within six months from the date of receipt of the judgment.

(MEHROZ K. PATHAN, J.)