

(2019) 10 BOM CK 0025

In the Bombay High Court

Case No : Criminal Writ Petition No. 775 Of 2019

Kusum Narottamdas Harsora

APPELLANT

Vs

State Of Maharashtra And Ors

RESPONDENT

Date of Decision : 04-10-2019

Acts Referred:

Citation : (2019) 10 BOM CK 0025

Hon'ble Judges : S.S. Shinde, J

Bench : Single Bench

Advocate : Sandeep R. Karnik, G.P. Mulekar, Ganesh Bhujbal

Final Decision : Disposed Of

Judgement

1. Rule. Rule made returnable forthwith. With the consent of the parties matter is heard and disposed of finally at the stage of admission.
2. Heard counsel appearing for the Parties. Being aggrieved by the order dated 14th September 2017 passed by the learned Metropolitan Magistrate, 18th Court, Girgaon, Mumbai below Exhibit 343 in CC No. 108/PW/2005 this Petition is filed.
3. Learned counsel appearing for the Petitioner submits that, the learned Magistrate has assigned the unsustainable reasons for not allowing the prosecution to produce the certified copies of the share transfer form, which has relevance vis-a-viz proceedings pending before the same Court. It is submitted that, mere production of documents would not cause prejudice to the accused and therefore the learned Magistrate ought to have allowed the application filed by the prosecution for production of documents.
4. On the other hand, learned counsel appearing for the contesting Respondents submit that, though accused are not opposed to the production of documents however, while considering the said documents the accused must get the opportunity to put forth their contention about admissibility and authenticity of

such documents.

5. Upon appreciating rival contentions and keeping in view the prayer that, only the production of documents i.e. 1) Colagate Palmolive (I) Company Limited, Share Transfer Form in the name of Complainant and annexure thereto, 2) Letter dated 7th March, 2000 mentioned in the application below Exh. 343 in CC No. 108/PW/2005 filed by the State before the Metropolitan Magistrate, Girgaon, Mumbai, sought to be produced on record by the State, the learned Magistrate ought to have allowed the application filed by the prosecution for production of documents mentioned in the aforesaid complaint without prejudice to the contention of the accused and reserving the right of the accused, to contest said documents after production is allowed.

6. In that view of the matter impugned order 14th September 2017 passed by the learned Metropolitan Magistrate, 18th Court, Girgaon, Mumbai below Exhibit 343 in CC No. 108/PW/2005 is hereby quashed and set aside. Liberty to the prosecution to file fresh application with relevant documents i.e. mentioned herein above for the production. In case such application is filed, the learned Magistrate shall consider the prayer liberally to allow the production of said documents, however without prejudice to the contentions of the accused and reserving the right to contest said documents on merits after production is allowed.

7. Rule made absolute on above terms. Writ Petition stands disposed of accordingly.