

MHBU010013032018



Sessions Trial No.48/2018
State Vs.Ganesh

ORDER BELOW EXHIBIT NO.101
(Passed on this 6th day of June 2023)

1] Instant application (Exh.101) has been filed by learned APP Shri Khatri inter-alia contending that prosecution witness No.14 had stated in his evidence that original documents of bill and Bilty were deposited with the office of State Excise Department and therefore, he was having only its copies. Therefore, learned APP submitted that originals are not available with PW 14 witness. On this count, he requested the Court to allow him to lead secondary evidence for providing those documents.

2] Learned Counsel of accused Shri Chopade has filed reply vide Exh.102 and opposed the application (Exh.101) by contending that prosecution has not complied legal provisions of Sections 63 and 65 of Evidence Act. There is no legal ground to allow application (Exh.101). Lastly, it is prayed for rejecting application (Exh.101).

3] I have heard both the learned Counsels for the parties and perused record. On perusal of record, it will find that PW 14 Anil Hande has stated that disputed bills and Bilty have deposited with State Excise Department. Therefore, he has produced his office copies by attesting the same on the record. Those bill and Bilty appear to be relevant to the case and they may throw light on the controversy. In such facts and circumstances, if permission is granted to the prosecution side for

proving those documents by way of secondary evidence, then in that situation, accused will get the opportunity to cross-examine the relevant witness. As such, according to me, there is no legal ground available on record so as to reject application (Exh.101). For above-stated reasons, application (Exh.101) is liable to be allowed. In the result, following order is passed.

ORDER

- 1] Application (Exh.101) is allowed and permission is granted for proving bills and Bilty, by way of secondary evidence.
- 2] Both the parties to note it.
- 3] Case to proceed further.

Buldana
Date-6.6.2023

(R.N. Mehare)
Addl.Sessions Judge,
Buldana