

MHKO030074452019



SUMMARY CRIMINAL CASE NO. 5335/2019

Ashapuri Timbers

Vs.

Ankush Satappa Patil

ORDER PASSED BELOW EXH.24

By way of this application the complainant has seeking permission for production of documents and also requested to read the said documents in evidence.

2. Perused application and say given by the learned advocate for the accused on back side of the application.

3. After perusal of record it appears that on 02/05/2022 complainant had filed the application below Exh.17 for seeking permission of production of documents. Accordingly, the complainant has filed computerized invoice document along with the list of document at Exh.18, however, there is no compliance of Section 65-B of The Indian Evidence Act, 1872. The learned advocate for the accused submitted that in order to fill-up the lacuna the present application is filed by the complainant, which is not permissible in the eyes of law. Therefore, learned advocate for the accused prayed for the rejection of the application.

4. Heard both the sides. It is a matter on record that the complainant had filed his purchase goods invoices under Section 65-B of The Indian Evidence Act, 1872 at serial No.1 of the list of document below Exh. 18. However, after realizing the mistake the complainant had filed present application for seeking permission to produce certificate under Section 65-B

(4) of The Indian Evidence Act, 1872. Section 65-B of the Indian Evidence Act is enabling provision which prescribes the procedure about the manner of production of Electronic Evidence before the Court. In said provision it is clarified that who is entitled to give certificate under Section 65-B of the Indian Evidence Act, 1872. Producing the certificate on record is the procedural aspects and in order to avoid procedural irregularity, the complainant has taken precaution by filing the application. However, the present complainant is for evidence of complainant which is yet to be started. Therefore, considering the facts and circumstances I am of the opinion that this application is part of the attempt to regularize the irregularity. There is no bar in the Code of Criminal Procedure or Indian Evidence Act to remove the irregularity in procedure. Therefore, if application is allowed, no prejudice will be caused to the accused. Hence, I pass the following order,

ORDER

1. Application (Exh.24) is allowed.
2. Permission is granted to produce the documents on record.

Sd/-

Kolhapur.
Date. 20-10-2022

(Savita M. Pawar)
Judicial Magistrate First Class,
Kolhapur.