

ORDER BELOW EXH. 65 IN C. C. NO. 105/SC/2021

01. Read the application and say filed by the accused. Heard both the Ld. Advocates for the complainant and the accused.

02. It is the contention of complainant that, the complainant filed earlier evidence affidavit along with documents only the office copy of notice not filed. Hence, filed this additional affidavit along with list of document i.e. notice. Hence, filed this application for permission to file the additional evidence affidavit and document.

03. The application is resisted on the ground that, the statutory notice dated 15.11.2021 for which the complainant wants to file additional evidence is subsequently manufactured by the complainant to gain advantage by misleading and misguiding the Court. The complainant by giving evidence on 13.04.2023 filed the notice dated 15.11.2021 which is addressed to Bhavesh Jain. Whereas there are modification by adding mobile number and email of the accused in the present notice which is not mentioned in the office copy. Moreover, the signature on the statutory notice differ in sign. Also in previous notice there are three paragraphs on first page and the current notice there are only two paragraphs on first page. Hence, prays that the application be rejected.

04. Upon hearing both the sides, on perusal of record shows that, my Ld. Predecessor has recorded the further examination-in-chief and documents are exhibited whereas it is deferred for arguments on admissibility of statutory notice. Considering the objections of the accused I have perused the notice which is previously filed by the complainant on record along with document and the present notice which the complainant wants to file along with the additional evidence affidavit. It seems that, there are change in number of paragraphs on the first page. On perusal of the

examination-in-chief it reveals that the accused has given reply notice dated 29.11.2021 which is at Exh. 63. Therefore, the accused raised objection for giving further evidence but the accused will get an opportunity to bring his defence on record by way of cross-examination. Hence, the evidentiary value will be decided at the time of final hearing. In view, at this stage, in the interest of justice permission is granted to give additional evidence. Hence, the application is allowed.

Mumbai
Date : 17.09.2025

Sd/-
(M. R. Dhanorkar)
Judicial Magistrate First Class,
7th Court, Dadar, Mumbai