


<u>CNR No. MHNS130009382019</u> 	<u>SCC No.524/2019</u> Shivneri Enterprises Vs. Dattatray Shelke
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**ORDER ON EXH. 30**

The present application has been filed by complainant to seeking permission to lead secondary evidence of disputed cheque in respect of purchase bills issued in favour of the accused. Perused the application and say filed by the accused. Heard both.

2. The complainant contended that, original purchase bills bearing no.16 and 58 are in custody of the accused. Therefore, the complainant is unable to produce those bills in original form. The production of document has been sought by filing application at Exh.28 which came to be rejected. Therefore, it is necessary to lead secondary evidence in respect of those two bills.

3. The learned advocate for the accused submitted that, the application filed by the complainant is false and frivolous in nature. Therefore, the permission to lead secondary evidence in respect of purchase bills can not be granted. Hence, he prayed that the application may kindly be rejected.

4. The present complaint is filed under Section 138 of Negotiable Instrument Act. Complainant stated on affidavit that the original bills are in the custody of the accused.

5. Section 65 of the Indian Evidence Act 1872 provides that the secondary evidence may be given of existence, condition or contents of a document when the party offering the evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time. If the application is not granted then irreparable loss would be caused to the complainant. The application of the complainant seems to be genuine and bonafide. Thus, in cumulative effect of facts, circumstances and law it would be just and appropriate to allow the application of the complainant. Hence, I proceed to pass following order:

**ORDER**

- 1) Application below Exh.30 is allowed.
- 2) The complainant is permitted to adduce secondary evidence in respect of purchase bill dated 25/12/2017 bearing no.16 and purchase bill dated 28/02/2018 bearing no.58 as prayed.

Date: - 06/01/2026

(P. D. Kolekar)  
Judicial Magistrate First Class,  
Pimpalgaon(B.)