

MHNS130012852018

**S.C.C./678/2018****Kailas Rambhavu Pagar****Vs.****Mayur Sham Kasar**

ORDER BELOW EXH.58 IN
SUMMARY CRIMINAL CASE NO.678 of 2018

01] The accused has moved this application for de-exhibiting documents (Exh.55 to 57). The accused has contended that those documents have not been proved in evidence. No evidence was produced to prove those documents. Therefore, those documents may be de-exhibited.

02] The complainant filed say and contended that those documents have been exhibited as per order below Exh.46 and 49 after deciding objections of both the parties on merit. This application is not maintainable in the law. Whether documents are proved or not is the task which to be performed by the Court at the time of Judgment. Therefore, this application may be rejected.

03] Learned advocate for the accused submitted through oral and written argument (Exh.60) that memo (Exh.55 to 57) are exhibited after posting the matter for judgment. The said memo are not covered under Section 72 of the N.I.Act. No witness was examined in order to prove signature and contents of documents exhibit 55 to 57. It was further argued that memo (Exh.55 to 57) are issued by IDBI Bank. However, memos filed with the complaint were issued by Ozhar Merchant Co-operative Bank.

04] Reliance was placed upon the Judgment of **Sunil Bharadkar Vs. Santosh Rane, Writ Petition 5872/2005**, decided on 10/04/2006, the Hon'ble Bombay High Court.

05] On the other hand, learned advocate for the complainant argued that documents have been exhibited after considering objections of both the parties. Criminal Court has no power to review its own order. Therefore, this application may be rejected.

06] It is pertinent to note that documents (Exh.55 to 57) were admitted in evidence vide common order below Exh.46 and 49, dated 09/02/2026. Those documents were admitted in evidence after considering contentions of both the sides. Those documents were admitted in evidence in view of **Section 146 of the N.I.Act**. It provides special provision for admitting document in evidence for the purpose of proceeding under Section 138 of the N.I.Act.

07] Whether document is proved or not is the question which before determines at the time of Judgment after considering overall evidence on record. Admitting documents in evidence is different thing than recording finding on proof of a document. Documents (Exh.55 to 57) were admitted in evidence after considering contentions of both the parties and after recording reasons in detail. This Court while exercising jurisdiction under Criminal Procedure, has no power to review its own order.

08] The judgment of Sunil Bharadkar (*supra*), is in respect of Civil Procedure Code, 1908. In that case Hon'ble High Court, in para

No.12, held that “*merely because the expression de-exhibited has been used, it would not amount to de-exhibition of documents in evidence. It would simply mean that a documents other than those which are exhibited in terms of Order 13 Rule 4 are not admitted in evidence.*”

09] As noted above, in this case documents have been admitted in evidence as per special provision of Section 146 of the N.I.Act. Therefore, judgment relied upon by the accused is not applicable to the present case. The other grounds raised by the accused in this application cannot be again considered. Therefore, the application is liable to be rejected. Hence, I pass following order -

ORDER

Application (Exh.58) is hereby rejected.

Sd/-

[A. J. Patil]

Judicial Magistrate (F.C.)

Pimpalgaon (B).

Date : 06/04/2026

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