

MHST100004282015

S.C.C. 187/2015

(Vinod Prabhakar YewaleVs.Nitin Subhedar Jagtap)**ORDER BELOW EXH.158 IN S.C.C.187/2015**

The accused Nitin Jagtap filed this application and prayed that the examination-in-chief and cross-examination of the informant is already recorded vide Exh. 32. However, the agreement to sell dated 02/02/2010 and Xerox copy of the agreement to sell are different and it shows that there is fabrication in it. Therefore, it is necessary for the accused to recall the informant for further cross-examination. Therefore, accused prayed that his application may kindly be allowed and informant may kindly be recalled for cross examination.

2. On the other hand the complainant filed say to this application vide Exh. 161 and opposed the application. According to the complainant the original agreement to sell is already exhibited and the accused has cross-examined the complainant. According to the complainant the accused filed this application only to prolong the matter and now the accused has an ample opportunity to lead the evidence. Therefore he prayed that, an application may kindly be rejected with cost.

3. Heard, Shri. Sanas, Ld. Counsel for accused and Shri. G. D. Deshpande, Ld. Counsel for complainant. Perused record along with all the documents and evidence of complainant. It is the claim of the accused that there is fabrication in the agreement

to sell filed on record. Therefore, he want to recall the complainant for further cross-examination. He has filed applicaion under Section 340 of Cr.P.C. for detailed and independent inquiry. Therefore accused prayed for recall of the complainant. The perusal of the record shows that, the complainant filed his evidence on affidavit vide Exh. 33 on 11/11/2016 thereafter the accused cross-examined the complainant and completed the cross-examination on 05/08/2022. Thereafter, the complainant examined another witness namely Adv. Arjun Nanaware on 04/11/2022. Thereafter the statement of the accused under Section 313 was recorded on 28/04/2023 and the accused examined his witness Anantkumar Baburao Dixit on 04/08/2023. Now when the complaint is pending for further evidence of the accused, the accused press this application. However, the perusal of the record shows that the accused has cross-examined the complainant in all respect and interestingly at Para No. 41 in cross-examination dated 24/01/2020 the accused cross-examined the complainant in respect of the agreement to sell on record. Therefore, it shows that the accused has completed his corss examination in all manner and on the point of the said agreement to sell filed on record. Therefore, it can be said that the accused filed this applicatin to prolong the matter. Therefore for the above reasons, I proceed to pass the following order.

**Order**

- 1) The application below Exh. 158 is rejected.
- 2) No order as to costs.

Date:- 23/02/2024  
Mahabaleshwar

(A.D. Margode)  
Civil Judge Junior Division,  
Mahabaleshwar.