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Cr1.A.No. 150 OF 2001

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Item No.	Court No.	Section
104	01	IIA

S U P R E M E C O U R T O F I N D I A  
Record of Proceedings

Criminal Appeal No. 150 of 2001

State of Maharashtra	Appellant (s)
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vs.

Md. Salim Mira Shaikh	Respondent(s)
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(With office report)

Date:08/08/2002 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For the Appellant (s): Mr. Altaf Ahmed, ASG  
Mr. Tara Chandra Sharma, Adv.  
Mr. P Parmeswaran, Adv.

For the Respondent(s): Mr. Sushil Kumar, Sr. Adv.  
Mr. Adolf Mathew, Mr. Sanjay Jain and  
Mr. R P Wadhvani, Advs.

UPON hearing the counsel the Court made the following  
ORDER

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Heard counsel for the parties from 2.30 P.M. to 2.50 P.M.

For the reasons stated in the signed order, the appeal is allowed and the impugned order of the trial court is set aside.

(D.P. Walia)  
Court Master

(S.L. Goyal)  
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 150 OF 2001@@  
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State of Maharashtra

..Appellant

vs.

Md. Salim Mira Shaikh

..Respondent

O R D E R@@  
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The only question involved in this case is whether a part of the document which purports to be details of the steps taken before recording confession of the accused should be allowed to be exhibited or not. It seems that on 18th August, 1995 the accused was produced before Shri S.K. Saikia, DIG, CID Branch, Ahmedabad for recording of confession. Some questions were put to the accused and he was given time to consider whether he wants the confession to be recorded or not. Thereafter, on 19th August, 1995, the accused was again produced and his confession was recorded. A single document recording the confession and indicating what transpired on 18th August, 1995 and 19th August, 1995 was sought to be adduced as evidence in the trial against the accused.

An objection was taken to the effect that part of the document which related to 18th August, 1995 should not be taken on record as it could not be construed as being part of the confession.

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It is contended on behalf of the appellant by the learned Additional Solicitor General that in view of the observations of this Court in S.N. Dube vs. N.B. Bhoir and@@  
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Others, 2000 (2) SCC 254, wherein at page 284 it has been@@  
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stated that a confessional statement in two parts is to be regarded as a single confession. The trial court in the instant case erred in not taking the entire document on record as an exhibit.

Without advertent to this aspect, we are of the opinion that it is a single document which was sought to be produced in evidence. It is the record of proceedings relating to what happened on two days, namely, 18th August, 1995 and 19th August, 1995. The document is relevant for the purposes of the trial and the trial court has not indicated as to why it should be regarded as inadmissible. What is the weight to be given to the first part of the document, will be considered at the time of trial. Whether the first part amounts to a confession or not, was not required to be decided at an earlier stage. Whether the first part of the document in question can be regarded as a part of the confession or not, is a question which has to be decided at the time of trial. The trial court, even if it had come to the conclusion that the first part of this document cannot be regarded as part of the recording of confession, could not have directed that this part will not be admissible. Whether it was part of the confession or not is wholly irrelevant for considering

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whether the document could be exhibited or not. On the facts as appear on the record, we see no reason as to why the entire document in question purporting the confession of the accused should not have been exhibited and taken on record. Similarly, the testimony of the officer PW-481 is also to be taken on record.

We may note here that while granting leave this Court on 2nd February, 2001 stayed that part of the impugned order of the trial court wherein it was observed that the evidence of PW-481 regarding the manner in which the document (Ex.1604) came in existence stood excluded from the evidence. Mr. Sushil Kumar, learned senior counsel for the respondent informs that the trial has proceeded and this document has already been put in its entirety to the accused in his statement under Section 313 Cr.P.C.

For the aforesaid reasons, this appeal is allowed and the impugned order of the trial court is set aside.

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.....CJ.

.....J.  
(K.G. BALAKRISHNAN)

.....J.  
(ARIJIT PASAYAT)

New Delhi;  
August 8, 2002.