fShailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION [STAMP] NO.14290 OF 2023

Rahul Gandhi] Petitioner

Vs.

1. The State of Maharashtra]

2. Rajesh Mahadev Kunte] Respondents

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Mr. Sudeep Pasbola i/b Mr. Kushal Mor a/w Mr. Rohan Chauhan, Mr. Tanmay Karmarkar and Mr. Rishab Khot, for Petitioner.

Mr. A.A. Palkar, A.P.P, for Respondent No.1 – State.

Mr. Tapan Thatte, for Respondent No.2.

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CORAM : PRITHVIRAJ K. CHAVAN, J.
RESERVED ON : 26th JUNE, 2024.
PRONOUNCED ON : 12th July, 2024.

ORDER:

1. Rule.

2. Learned Counsel for the respondents waive service.

3. By consent, Rule is made returnable forthwith.

4. Aggrieved by an order of learned Judicial Magistrate First Class, *Bhiwandi* passed on 3rd June, 2023 in SCC No.2425 of 2014 marking exhibit to the entire Criminal Writ Petition No.4960 of 2014 along with it's annexures while recording evidence of the respondent No.2 (complainant), the petitioner has approached this Court invoking inherent powers under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr. P.C") r/w Article 227 of the Constitution of India.

5. Shorn of unnecessary details, a few facts germane for disposal of this Petition are summarized as follows.

6. Respondent No.2 – complainant has filed a private complaint against the petitioner which was registered as SCC No.2425 of 2014 and has been pending before the learned J.M.F.C, *Bhiwandi* since last about ten years. After issuance of process against the petitioner for an offence punishable under Section 500 of the Indian Penal Code (for short "I.P.C".), the matter proceeded further.

7. The sum and substance of the complaint is that the petitioner addressed a public meeting at Village *Mouje Sonale, Taluka*

Bhiwandi on 6th March, 2014. During the course of his speech, he made certain false, frivolous, baseless and wanton allegations against *Rashtrity Swayansewak Sangh* (for short "RSS") and it's people with *mala fide* motive to harm the reputation of the said organization, its followers, people and *swayansewaks*. Relevant part of the speech is extracted below;

> *"RSS ke Logon Ne Gandhiji Ko Goli Maari Aur Unke Log Gandhiji Ki Baat Karte Hai. Sardar Patel, Sardar Patel Congress party Ke Neta The Unhone RSS Ke Bare Me Saaf Suthra Likha Hai. Unke Sangathan Ke Bare Me Bahut Saaf Suthra Likha Hai".*

8. It is the contention of the respondent No.2 in his complaint that these statements are blatant lies and based on the petitioner's opinion and knowledge.

9. I heard Mr. Pasbola, learned Counsel for the petitioner and Mr. Thatte, learned Counsel for respondent No.2 at a considerable length. I have perused the impugned order as well as previous orders dated 12th June, 2018 passed below **Exhibit 52** and 10th September, 2018 passed below **Exhibit 61** by the learned J.M.F.C. There are two more orders of this Court dated 20th September,

2021 passed in Criminal Writ Petition No.376 of 2019 (Coram: Revati Mohite Dere, J.) and dated 22nd June, 2022 passed in Criminal Writ Petition No.799 of 2022 (Coram: Prakash D. Naik, J.)

10. It is a matter of record that after issuance of process against the petitioner vide an order dated 11th July, 2014 under Section 500 of the I.P.C, it was challenged by way of a Criminal Writ Petition No.4960 of 2014. This Court (Coram: M.L. Tahaliyani, J.) vide an order dated 10th March, 2015 dismissed the said Petition.

11. The said order was carried to the Supreme Court vide SLP (Crl.) No (s) No.3749 of 2015, however, the Petition came to be withdrawn on 1st September, 2016.

12. Copy of the transcript of the alleged speech from the Compact Disc (C.D) containing the purported live telecast of the alleged speech made by the petitioner was annexed as exhibit to the aforesaid Writ Petition only for the purpose of hearing of the said petition in view of the rules of this Court.

13. On 12th June, 2018, respondent No.2 preferred an application (**Exhibit 58**) under Section 294 of the Cr.P.C before the learned Magistrate, *inter alia,* producing certified copy of the aforesaid Writ Petition along with annexures and affidavit as was filed by the petitioner before this Court and called upon the petitioner to admit or deny the genuineness of the same.

14. The petitioner while filing his say to the application (**Exhibit 58**) admitted only the memo of Petition and the affidavit and denied the annexures to the said petition which were essentially the documents filed by the respondent No.2 along with the complaint. Learned J.M.F.C, by an order dated 12th June, 2018 partly allowed the application and exhibited only the Memo of the said Writ Petition and the supporting affidavit.

15. Respondent No.2 immediately moved another application (**Exhibit 61**) on the same day seeking to exhibit the transcript of the alleged speech annexed to the said Writ Petition. The petitioner vehemently objected exhibiting the transcript and, as such, by an order dated 10th September, 2018 learned J.M.F.C rejected the said application by observing that the transcript of the alleged speech of

accused is recorded on a compact disc on the basis of which the instant complaint was filed by the respondent No.2 and hence, it is a document of respondent No.2. Essentially, the transcript would be a document of respondent No.2 which will have to be proved by him during trial.

16. Respondent No.2 challenged the said order before this Court by filing Criminal Writ Petition No.376 of 2019 seeking setting aside the order dated 10th September,2018. However, this Court dismissed the Petition of the respondent No.2 vide an order dated 20th September, 2021. The learned J.M.F.C in the teeth of the order of this Court in Writ Petition No.376 of 2019 should not have exhibited the annexures in the form of transcript of the contents of the CD containing the alleged speech, for, it would be the respondent No.2's legal responsibility to prove the said document as his complaint is based on the said CD. Attention of the learned J.M.F.C is invited to the observations made by this Court in Writ Petition No.376 of 2019 which read thus;

> *"10. The submission of the learned counsel for the petitioner that Annexure C to the writ petition filed by the respondent No. 1 in this Court ought to have been exhibited under Section 294 Cr.PC, as it was relied upon by the respondent No.1, is*

wholly misconceived. It is a settled law that the prosecution must stand on its own feet in order to prove its case. Admittedly, the petitioner (original complainant) relied on certain documents including a CD containing the speech of respondent No. 1 in support of his complaint. It appears that when the respondent No. 1 filed a writ petition in this Court (Criminal Writ Petition No. 4960/2014), he annexed a transcript copy of the speech from the CD. Merely because the said transcript was annexed as Annexure `C' to the petition, does not mean that the said document has been admitted by the respondent No.1, thereby absolving the petitioner from proving the same. It appears that the transcript of the said CD was annexed as annexure C for seeking quashing of the case, to show that no case was made out. The said CD is a document of the petitioner, which will have to be proved by the petitioner during the course of the trial in accordance with the law. Merely because the petitioner has obtained a certified copy of the petition alongwith the annexures, does not mean that the petitioner (complainant) can compel the respondent No. 1 to admit/deny Annexure `C' to the said petition.

11. Learned counsel for the respondent No. 1 submitted that the Practice Note issued by this Court required that if any document is in a language other than English, typed copy of the translation in English of the contents must be produced alongwith the original document and that in the present case, the contents were not only on a CD but also were in Hindi, which necessitated the respondent No. 1 to produce a translated copy in English. Whereas, according to

the learned counsel for the petitioner, since the respondent No. 1 had relied on the transcript, the said transcript Annexure `C' to the writ petition was the respondent No.1's document.

12. The question that arises for consideration is whether, in the facts, the respondent No.1 can be compelled to admit Annexure `C' i.e. transcript of the alleged speech, by taking recourse to the provisions of the Evidence Act. The answer is `No'. The scope and import of Section 294 Cr.P.C is very clear i.e. to shorten the prosecution evidence and to ensure that certain documents when admitted by the accused, need not be proved by the prosecution. The legislative intent was not to bind the accused persons or compel them to admit or deny the genuineness of the documents produced by the prosecution. It is well settled that if an accused is compelled to deny or admit a document, it would be contrary to the constitutional mandate, inasmuch as, it would violate Article 20(3) of the Constitution of India. In the case of **State of Maharashtra vs. Ajay Dayaram Gopnarayan** *(Supra), this Court in para 28 has observed as under:*

> *"…. The intention of the Legislature was not to bind the accused persons or force him to admit or deny the genuineness of the documents produced by the prosecution that is why the court would not be justified in passing the order directing accused to admit or deny the documents, obviously since it would violate Article 20(3) of the Constitution of India."*

Similarly, in ***Niwas Keshav Raut*** (Supra), this Court has, in para 11 observed as under :

> *"…. Then it is not necessary for the accused, who is called upon to admit or deny the document, to choose either of these options and he may simply keep silence in respect of the document which may as well be an expression of his fundamental right under Article 20(3) of the Constitution of India which says that no person accused of any offence shall be compelled to be witness against himself. In case the accused chooses to deny the document or just remain silent in the regard, the document cannot be admitted in evidence and it would be required to be proved in accordance with law having regard to the right of the accused under Article 20(3) of the Constitution of India."*

> *13. Thus, it is clearly evident that an accused cannot be compelled to admit/deny any document. The right of an accused to remain silent flows from the Article 20(3) of the Constitution of India and is sacrosanct in a criminal trial. No Court can compel or direct an accused to admit/deny any document. It is also not the intent of the legislature under Section 294 Cr.P.C.*

> *14. As noted above, the CD is a document of the petitioner relied upon by him in the complaint and is also annexed to the list of documents. Merely because a document of the complainant (petitioner)*

> *is annexed to the petition filed by the respondent No. 1, would not make such a document a `public document', obtained from whichever source, thus giving a complete go-by to the complainant (petitioner) from proving the same in accordance with law. As noted earlier, prosecution/complainant has to stand on its own feet and prove its case on its own steam".*

17. Obviously, the annexures which were annexed with the Writ Petition were only for a limited purpose of seeking quashing of the case and can by no stretch of imagination be construed as an admission on behalf of the petitioner in respect of the contents therein. This Court has also considered, in the aforesaid judgment, scope of Section 294 sub-section 1 of the Cr. P.C. The C.D is a document of the respondent No.2 which will have to be proved by him during the course of the trial in accordance with law. As already stated, scope of Section 294 of the Cr.P.C is to shorten the prosecution evidence and to ensure that if certain documents are admitted by the accused then they need not be proved by the prosecution. This Court has, therefore, rightly placed reliance on a decision in a case of **State of Maharashtra Vs. Ajay Dayaram Gopnarayan and others**[1]. The right of the accused to remain silent flows from Article 20 (3) of the Constitution of India and is

1 2014 (2) Bom. (Cri.) 40

sacrosanct in a criminal trial. He, therefore, cannot be compelled to admit or deny any document. To keep silence in respect of a document by the accused is also an expression of his fundamental right under Article 20 (3) of the Constitution of India. He cannot be compelled to be a witness against himself.

18. Mr. Thatte, learned Counsel for respondent No.2 has not contested the legal position as emerged from the aforesaid observations, in the sense, the accused cannot be compelled to admit a document of the prosecution, for, it would tantamount to violation of Article 20 (3) of the Constitution of India.

19. It appears from the overall conduct of the respondent No.2 that the matter is being unnecessarily delayed and protracted. This is evident from the observations made by this Court in Criminal Writ Petition No.799 of 2022 on 22nd June, 2022 that instead of examining himself first in order to prove his complaint, respondent No.2 moved an application for issuance of a witness summons to the Notary who had notarized the Writ Petition filed by the petitioner. It was another unsuccessful attempt to try and get the documents exhibited which were neither admitted nor allowed to

be exhibited by the learned Magistrate. When the learned Magistrate rejected the application on 22nd February, 2022, the said order was challenged before this Court by way of a Writ Petition No.799 of 2022. The Single Judge of this Court (Prakash D. Naik, J.) has rejected Criminal Writ Petition. It would be apposite to extract paragraphs 12 and 13;

> *"12. Section 135 of the Evidence Act incorporated under Chapter X relating to examination of witnesses refers to order of production and examination of witnesses. As per the said provision the order in which witnesses are produced and examined shall be regulated by law and practice for the time being relating to civil and criminal procedure respectively and in the absence of any such law, by the discretion of the Court. Section 136 of the Evidence Act relates to the Courts discretion to decide the admissibility of evidence. The section provides that when either party proposes to give any fact, the Judge may ask the party proposing to give evidence in what manner the alleged fact, if proved, would be relevant and the Judge shall admit the evidence if he thinks that the fact if proved would be relevant and not otherwise.*
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> *13. In the case of State of Kerala Vs. Rasheed, it was held that the norm in any criminal trial for examination-in-chief of witness to be carried out first, followed by cross-examination and re-examination, if*

required, in accordance with Section 138 of Evidence Act, Section 231 (2) of Cr.P.C, however, confers a discretion on Judge to defer cross-examination of any witness until any other witness or witnesses have been examined or recall any witness for further cross-examination in appropriate cases. Judicial discretion has to be exercised in consonance with statutory frame work and context while being aware of reasonably forcible consequences. Parties seeking deferral under 231 (2) Cr.P.C must give sufficient reasons to invoke exercise of discretion by Judge and deferral cannot be ascertained as a matter of right. There cannot be straight jacket formula providing for grounds on which judicial discretion u/s. 231 (2) of Cr. P.C can be exercised. Exercise of discretion has to take place on case to case basis. Guiding principle for a Judge u/s. 231 (2) of Cr.P.C is to ascertain whether prejudice would be caused to the parties seeking deferral if application is dismissed. Balance must be struck in the rights of the accused and prerogative of the prosecution to lead evidence. The Court also enumerated the factors to be taken into consideration while exercising such discretion".

In the case of Karmapa Charitable Trust and another (supra), the Sikkim High Court has observed that undoubtedly if any exigency or circumstances so require, the law provides that the Court shall exercise its discretion, otherwise it shall be for the party concerned to decide which witness he seeks to examine

first and cannot be based on the dictate of the opposite party or for their convenience.

In the case of Sanjoy Mehta (supra), the Calcutta High Court has observed that if exigency of the circumstances so requires in an appropriate case, the Court has always a discretion to direct that the witnesses be examined in a particular order, but in the absence of any exigency or compelling reason it should be for the party to decide in which order it will produce and examine its witnesses.

In the case of Shwe Pru Vs. The King (supra), the High Court of Rangoon had observed that the Trial was unsatisfactory in number of respects but especially in regard to the failure to examine the witnesses for the prosecution in their proper order. In a trial of importance therein, the public prosecutor should be required as far as possible to examine his witnesses so as to bring out the facts in their logical sequence and particularly the expert witnesses, such as, medical witness, ought not be examined at the early stage of trial, when it is impossible to realize on what points their opinion is necessary.

20. It can thus be seen that the respondent No.2 is keeping no stone un-turned to thwart the legitimate right of the petitioner to get the complaint decided on merits as expeditiously as possible in view of Article 21 of the Constitution of India which provides

speedy trial. It is difficult to abstruse the conduct of the respondent No.2. Free and fair trial is a *sine qua non* of Article 21 of the Constitution of India. It is trite law that justice should not only be done but it should be seen to have been done. A useful reference can be made to a decision of the Supreme Court in case of **K. Anbazhagan Vs. Superintendent of Police and others,** [2] The supreme Court was entertaining a petition for transfer of a case under Section 406 of the Cr.P.C involving some politicians. While expounding the scope of Article 21 of the Constitution, apart from other sections, it has been observed by the Supreme Court in paragraph 31 which reads thus;

> *"31. Free and fair trial is sine qua non of Art. 21 of the Constitution. It is trite law that justice should not be done but it should be seen to have been done. If the criminal trial is not free and fair and not free from bias, judicial fairness and the criminal justice system would be at stake shaking the confidence of the public in the system and woe would be the rule of law. It is important to note that in such a case the question is not whether the petitioner is actually biased but the question is whether the circumstances are such that there is a reasonable apprehension in the mind of the petitioner. In the present case, the circumstances as recited above are such as to create reasonable apprehension in the minds of the public at large*

2 AIR 2004 Supreme Court 524

in general and the petitioner in particular that there is every likelihood of failure of justice".

Essence of the judgment is that a criminal trial should be free and fair, unbiased and should not be such as would shake the confidence of the public at large.

21. Learned J.M.F.C appears to have completely disregarded the cardinal principal of criminal jurisprudence while exhibiting the annexures and also in violation of the orders passed by this Court on 20th September, 2021 and 22nd June, 2022 arising out of Writ Petition No.376 of 2019 and Writ Petition No.799 of 2022. Learned J.M.F.C should not have exhibited the annexures merely because it bears seal of this Court, unless the same is produced in original and proved in accordance with law of evidence.

22. It is nobody's case that the annexures are public documents within the meaning of Section 74 of the Indian Evidence Act. To bolster his argument, learned Counsel for the petitioner has placed reliance on a judgment of Orissa High Court in case of **Smt. Baijayanti Nanda Vs. Jagannath Mahaprabhu Marfat Adhikari**

Mahanta Bansidhar Das Goswami and others,[3] essentially on the aspect as to whether a plaint in a suit would be a public document within the meaning of Section 74 of the Evidence Act or it is a private document. It would be advantageous to refer paragraphs 11, 12, 13, 14, 19 and 20 of the said decision;

> *11." Taking into consideration the above meaning of "public document" and applying the same in the present context, the Patna High Court in paragraphs 12 and 13 of the decision in Gulab Chand and others (AIR 1964 Pat 45) (supra) held as follows:*
>
> > *12. For the respondent [defendant No.6] it was contended that Ext. E-2, being a certified copy of a plaint, it would prove, without any further evidence, the contents of the original plaint including the signatures of the plaintiffs on that point. In other words, the argument was that the plaint filed in a Court was a public document, a certified copy of which could be granted under Section 76 of the Indian Evidence Act, and when so granted, it will prove the contents of the original by the mere filing of it under Section 77.*
> >
> > *What are public documents are stated in Section 74 of the Evidence Act: Documents forming the acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth or of a foreign*

3 AIR 2014 Orissa 128

country have been described as public documents. I cannot see how a plaint filed by a private person in Court to institute a case against some others can come within the descriptions of the documents given in that sub-section. Sub-section (2) of Section 74 can in no way include a plaint. The plaint is neither an act nor the record of an act of any public officer. There can be no strength in the contention that when the plaint is presented and the Court makes an order admitting or registering it, the plaint becomes an act or the record of an act of a public officer presiding over the Court. At the most, it will become a part of the record maintained by the Court in that case after the plaint is admitted and registered, but that itself will not make it a public document. If it were, then anything filed in a case in a court of law either petitions or pleadings, private communications or documents which a party would file in case would become public documents for the simple reason that they are on the record of a case in Court. The judgment and decree passed in a case are undoubtedly the acts of the Court, and they will be public documents on that account. Similarly, a petition of compromise which is made a part of the decree forms a part of the public document, but before its incorporation in the decree, it remains a private document, though filed in Court, forming a part of the case record.

13. Learned Counsel for the respondent relied upon some cases to support the view that a

plaint or a written statement filed in a case are public documents. The case of Mahomed Shahaboodeen Vs. Wedgebarry10 Beng LR App.31, was very much relied upon. No doubt, in that case a certified copy of the plaint was admitted on the ground that the plaint was a public document as it formed a part of the record but a certified copy of a written statement which was filed in the case was rejected. If a plaint could be a public document, there is no reason why the written statement should not come in that category; but the view taken in that case about the plaint being a public document and, as such, provable by the production of a certified copy did not find favour in any other Court. Authors on evidence like Field and Woodroffe doubted the correctness of that view also in their commentaries.

12. The above finding of the learned Single Judge of Patna High Court is fortified in view of the judgment reported in Tarkeshwar Prasad v. Devendra Prasad, AIR 1926 Patna 180 where plaint was held not to be a public document and certified copy thereof was rejected from the evidence.

13. In the case of Akshoy ku. Bose v. Sukumar Dutta, AIR 1951 Cal 320, the written statement filed in a previous suit was set down as not a public document and its certified copy was not admissible in evidence without calling for the original. Mere production of a certified copy in such a case was found to be not sufficient secondary evidence of its contents without any further evidence.

14. In case of Usuf Hasan v. Raunaq Ali, AIR 1943 Oudh 54, it was similarly held that the plaint is a private document and it must be proved by direct evidence and no formal evidence was given about the plaint. The Lower Courts had drawn a presumption from the certified copy of the plaint about its genuineness but that was held to be an incorrect approach.

19. Referring to the aforesaid judgment learned Counsel for the defendant – opposite party No.4 argued that certified copy of a plaint in the Civil Court would be a public document and hence admissible in evidence for the purpose of proving the contents thereof.

20. In view of the analysis of the judgments cited before the Court in the forgoing paragraphs, the ratio decided in Jagdishchandra Chandulal Shah, (1989 Cri. LJ 1724) (supra) may constitute to be a per incurium judgment as the earlier judgment available has not been taken into consideration whereas in Gulab Chand and others, (AIR 1964 Pat 45) (supra) various judgments in the subject has been taken into consideration and after analyzing section 74 of Evidence Act, cogent reason has been assigned that plaint may be admissible in proof of fact that a particular suit was brought by a particular person against someone on a particular allegation; but it cannot be admissible to prove the correctness of a statement contained therein unless it is proved by direct evidence or by secondary evidence as provided

> *in the Evidence Act. In the present case, neither there is any whisper in the written statement filed by the defendant-opposite party No.4 with regard to pendency of C.S No.80 of 2006 nor in her evidence as D.W. 4 has she stated anything about the same. The same has been spoken through evidence adduced by D.W.5, Upendra Samantray who incidentally disclosed regarding pendency of C.S. No.80 of 2006. The plaintiff-petitioner is not a party to the said suit and the said suit has been filed by Sailabala Pattnaik and Bihuti Pattnaik and none of them examined as a witness in the present suit. Therefore, any application filed by them cannot be taken into consideration to exhibit the plaint as a public document so as to prove the case of defendant-opposite party No.4. Applying the ratio of the judgment in Radhashyam Mohanty and another (supra), the pleadings in the suit were that of plaintiffs and defendants and the evidence, therefore, is bound to be confined to the said pleadings. Hence, evidence should be led to prove or disprove any of the facts comprised in the pleadings of the plaintiffs or defendants but they cannot be permitted to lead evidence on a plea which was not there before the Court"*

Orissa High Court has drawn support from an earlier judgment of the Patna High Court in case of **Gulab Chand and others Vs. Sheo Karan Lall Seth and others**[4]

4 AIR 1964 Patna 45

23. The ratio laid down by the Patna High Court as well as Orissa High Court would be aptly applicable in the present set of facts. Paragraph 12 of the decision in case of **Gulab Chand and others** (supra) reads thus;

> *"12. For the respondent (defendant No.6) it was contended that Ext. E-2, being a certified copy of a plaint, it would prove, without any further evidence, the contents of the original plaint including the signatures of the plaintiffs on that point. In other words, the argument was that the plaint filed in a Court was a public document, a certified copy of which could be granted under Section 76 of the Indian Evidence Act, and when so granted, it will prove the contents of the original by the mere filing of it under Section 77.*
>
> > *What are public documents are stated in Section 74 of the Evidence Act: Documents forming the acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth or of a foreign country have been described as public documents. I cannot see how a plaint filed by a private person in Court to institute a case against some others can come within the descriptions of the documents given in that sub-section. Sub-section (2) of Section 74 can in no way include a plaint. The plaint is neither an act nor the record of an act of any public officer. There can be no strength in the contention that when the plaint is presented and the Court makes an*

> *order admitting or registering it, the plaint becomes an act or the record of an act of a public officer presiding over the Court. At the most, it will become a part of the record maintained by the Court in that case after the plaint is admitted and registered, but that itself will not make it a public document. If it were, then anything filed in a case in a court of law either petitions or pleadings, private communications or documents which a party would file in a case would become public documents for the simple reason that they are on the record of a case in Court. The judgment and decree passed in a case are undoubtedly the acts of the Court, and they will be public documents on that account. Similarly, a petition of compromise which is made a part of the decree forms a part of the public document, but before its incorporation in the decree, it remains a private document, though filed in Court, forming a part of the case record".*

24. Here, in the case at hand in Writ Petition No.4960 of 2014 filed in this Court may be admissible in proof of the fact that the same was filed by the petitioner against the order of issuance of process annexed with transcript of the C.D. Contents of the CD and the transcript cannot be admissible to prove it's correctness unless the same is proved to by direct evidence of the complainant.

25. Thus, having considered the entire facts and circumstances as well as earlier decisions of this Court, the impugned order dated 3rd June, 2023 needs to be quashed and set aside. Consequently, the following order is expedient.

: **O R D E R** :

(a) The Petition is allowed.

(b) The impugned order dated 3rd June, 2023 and the consequent exhibition of Criminal Writ Petition No.4960 of 2014 along with its annexures is quashed and set aside.

(c) Learned J.M.F.C is directed to proceed further in accordance with law in light of the observations made hereinabove.

(d) The learned J.M.F.C shall decide and dispose of the complaint as expeditiously as possible given the fact of its pendency for ten years.

(e) The parties are directed to co-operate in expeditious disposal of the complaint without seeking unnecessary adjournments.

26. Needless to state that this Court has not examined the merits and demerits of the case.

27. Rule is made absolute in the aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]