

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 2085 OF 2013

Sanjay Gajanan Chivate

.....Petitioner

V/s.

Dr. Ramesh Yadu Kadam and another

....Respondents

Mr. Uday Warunjikar Advocate for Petitioner

Mr. S. V. Kotwal Advocate for respondent no. 1

Mr. D. R. More APP for the State

CORAM : SMT. SADHANA S. JADHAV, J.
RESERVED ON: SEPTEMBER 11, 2015.
PRONOUNCED ON: NOVEMBER 20, 2015

PC :

Heard.

- 2) Rule. Rule made returnable forthwith with the consent of parties.
- 3) Petitioner herein questions the correctness and validity of the order dated 29/01/2013 passed by Additional Sessions Judge, Satara in Criminal Revision Application No. 15 of 2012.
- 4) Petitioner herein happens to be appropriate authority under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (Hereinafter referred as PCPNDT Act). Petitioner herein filed a complaint against present respondent i.e. Dr. R. Y. Kadam who runs Mukta Hospital at Satara Road Taluka Koregaon. It is alleged that appropriate

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authority had reliably learnt that Dr. R. Y. Kadam i.e. present respondent is conducting his profession in utter violation of provisions of PCPNDT Act, 1994. That he has indulged into the activities such as detection of sex of the foetus and disclosing the same to the pregnant women. That with the aid and assistance of Advocate Varsha Deshpande (Member of District Advisory Committee). Petitioner had decided to verify the genuineness of the information received by him. That one pregnant woman Smt. Tanubai Sambhaji Madane was contacted by Advocate Varsha Deshpande. She was posted as decoy witness.

5) On 20/01/2015 at about 3.30 p.m., Smt. Tanubai Madane had been to Mukta Hospital and informed the doctor that she wants to determine the sex of the foetus. That Tanubai was accompanied by Smt. Baidabai Madane and Smt. Maya Pawar as her relatives. She had been examined by the respondent herein i.e. Dr. R. Y. Kadam. After undergoing the sonography, she was informed that the foetus is of a female. It is alleged that Dr. kadam had demanded Rs. 2,000/- for sonography. The amount was paid. Dr. Kadam had not issued a receipt towards acceptance of professional fees. Soon thereafter at about 6.00 p.m, premises of Mukta Hospital were raided between 6.00 p.m.

to 10.00 p.m. Statement of Tanubai was recorded. Similarly the statements of Smt. Baidabai Madane and Maya Pawar were also recorded. The appropriate authority had also recorded the statement of Dr. R. Y. kadam along with his O.P.D. attendant Sou. Sangita Raut. Complainant had given the list of witnesses which includes Advocate Varsha Deshpande.

6) The case was registered as R.C.C. No. 6 of 2005. On 24/01/2005, Judicial Magistrate First Class, Koregaon had issued process against accused under sections 5 (2), 19 (4) and section 29 (1) (2) of PCPNDT Act.

7) Learned Magistrate had recorded evidence before charge. Complainant was examined as P.W. 1. He has deposed before the Court that he had the information that Dr. Kadam used to take sonography tests and thereafter disclose the sex of the foetus to the pregnant women. Before conducting the sting operation, affidavit of Tanubai was taken before Medical Superintendent of Rural Hospital with an undertaking that she would not abort her foetus even if it is of a female. That she has accepted 40 currency notes of Rs. 50/- denomination for paying the doctor. He deposed in accordance with the

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complaint. At the time of raid, sonography register and consent form was seized. Complainant had sealed the sonography machine forthwith. According to the complainant, register did not show the entry as far as Tanubai Madane was concerned. Complainant has further deposed before the Court that he had recorded the statements of Tanubai Madane. It was noticed that there was no receipt book regarding receipt of amount given by the patient for sonography. P.W. 1 had recorded the statements of persons concerned in accordance with law. It appears from the deposition of P.W. 1 that Tanubai Madane was accompanied by Advocate M/s Varsha Deshpande when she had been to the hospital for the purpose of terminating her pregnancy and even thereafter.

8) According to P.W. 1 accused had disclosed to P.W. 1 that he had come from Satara at 4.00/4.30 p.m. P. W. 1 has stated before the Court that Advocate Varsha Deshpande and her colleague and relatives had come and accused had submitted before them that the statement is in his own hand writing. 40 currency notes of Rs. 50/- were seized from the spot. After recording the evidence of the complainant, learned

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Judicial Magistrate First Class had drawn the presumption that prima facie case is made out for framing the charges and accordingly order was passed on 02/09/2011. Since both the applications have not been challenged before the Higher Court, the prayers in the application before the Magistrate have become final.

9) Prosecution examined the complainant Dr. Sanjay Gajanan Chiwate after framing of charge. He deposed before the Court that he had received secret information that Dr. Kadam is indulging into malpractices of disclosing the sex of the foetus to the pregnant women. It appears that he had sought help from Advocate Varsha Deshpande who is working as a member of District Advisory Committee under the PCPNDT Act. They had approached Tanubai Madane. An affidavit of Tanubai was taken before medical Superintendent Rural Hospital Waduj. She had given an undertaking that in the eventuality the sex of the foetus is determined as that of a female, she would not abort her foetus. She was given currency notes of Rs. 50/- to be paid towards the fees. Affidavit of Tanubai was shown to the witness. He had identified his signature and the same was marked as Exhibit 30.

10) He has further deposed that on 20/01/2015 at about 3.30 p.m. Tanubai along with Baidabai, Maya Pawar and Advocate Varsha Deshpande visited the clinic of Dr. Kadam. Tanubai had requested the doctor to perform the sonography test on her and disclose the sex of the foetus. That doctor had subjected Tanubai to sonography test and had disclosed that the sex of the foetus is female. Accused doctor Kadam had demanded Rs. 2000/-. She had given the trap amount. She then disclosed to Varsha Deshpande all that had happened in the clinic. **Accordingly the same information was given to P.W. 1 by Advocate Varsha Deshpande.** Pursuant to the said information, he visited Mukta clinic and conducted search and seizure operation. Twenty currency notes of Rs. 50/- were seized from the drawer of the doctor's consulting table. It was noticed by P.W. 1 that the registration certificate issued by Government Authorities was not displayed at the sonography centre. A panchanama of all the documents was drawn. P. W. 1 had seized the consent form. The name of Tanubai was not shown in the consent form register as well as sonography register. P. W. 1 had sealed the sonography machine and a panchanama was drawn to that effect. He

has proved the register and other documents.

11) P. W. 1 has further stated as follows:

“Thereafter I have taken the statements of Tanubai Madane. She has told sex of foetus is female as told by accused and for that sake she has paid Rs. 2000/- to the accused. Also I have recorded the statements of Baidabai Madane, Maya Pawar, Sangita Raut and **statement of the accused**. I found that misuse of violation of PCPNDT Act in the form of not displaying registration certificate, not maintaining proper record and indicating sex of the foetus to the mother after sonography. Hence, I filed the case against the accused on 22/01/2005. Now the complaint shown to me is the same. It bears my signature. Contents of it true and correct. It is at Exhibit 1”.

12) P. W. 1 has further stated that as an Appropriate Authority, he has the power to record the statements according to Law and therefore he recorded the statements of Tanubai. He has proved the statement of Tanubai and the same is exhibited at Exhibit 66.

13) He has further deposed that he recorded the statement of Baidabai as per her version. It bears her thumb impression. It is attested by Maya Pawar. He has proved the contents of statement of

Baydabai and the said statement is marked as Exhibit 67. He has then deposed that he recorded the statement of Maya Pawar as per her narration. He is the scribe of the said statement. He has proved the contents of the said statement which is marked as Exhibit 68.

14) P. W. 1 has further deposed before the Court as follows;

“Accused had submitted his own statement in his own handwriting and it was written by him before me. Its contents are true and correct. It is at Exhibit 69”.

The witness has further proceeded to reproduce the statement of the accused as was allegedly submitted by him. It is also submitted that ten minutes after the alleged sting operation, Advocate Varsha Deshpande and her colleagues and relatives all came in and accused submitted his statement in his own handwriting to him. The witness has identified the accused before the Court. He has then deposed that receptionist Mrs. Raut had also submitted her statement in her own handwriting before P. W. 1. He had endorsed upon the same. He has proved the contents of the said statement and hence, it is marked as Exhibit 70.

The examination-in-chief concluded on 30/11/2011. Cross-

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examination was deferred at the request of accused.

15) Perused records and proceedings. In fact, on 23/12/2011, accused had filed an application before learned Judicial Magistrate First Class and had brought it to the notice of learned Magistrate that while recording the examination-in-chief inadmissible evidence has been recorded by the Court. Accused/applicant had highlighted the portion which was inadmissible evidence. Accused had quoted paras 10, 11, 14, 15, 16 & 17 to be inadmissible evidence. It was submitted that Dr. Chiwate is not an eye witness to the alleged incident. Admittedly he had arrived at the hospital of the accused after the entire incident was over. Moreover, if the Appropriate Authority has all the powers similar to the police officer under the PCPNDT Act, then the statement of the accused made before him would not be admissible in law. That any alleged confessional statement before an authority, authorised to investigate alleged offence would be hit by section 25 of Indian Evidence Act and under section 162 of Code of Criminal Procedure, 1973. Therefore, a prayer was made that the said portions be deleted and de-exhibited and not be read in evidence.

16) Learned Judicial Magistrate First Class, Koregaon vide order dated 06/01/2012 was pleased to reject the said application. Learned Magistrate has observed that accused/applicant failed to show any provision by which it can be construed that Dr. Sanjay Chivate has acted as investigating police officer and therefore according to learned Magistrate since Dr. Chivate was not a police officer, the statement of the accused could not be hit by section 25 of the Indian Evidence Act. Learned Magistrate further held that the statements are exhibited by way of portion mark only to curtail the time in short it is a short cut way of recording the evidence and therefore, this contention is not acceptable. Application filed by the accused was rejected vide order dated 06/01/2012.

17) Being aggrieved by the said order, accused had filed criminal revision application no. 15 of 2012 before court of sessions at Satara. In the revision application, it was contended that Dr. Sanjay Chivate had learnt about alleged incident from Advocate Varsha Deshpande whose substantive evidence was not recorded before framing charge and hence, it was hearsay evidence, not admissible in Law. It was

further contended that Appropriate Authority had exercised the powers similar to the police officers under PCPNDT Act. Hence, statement of accused is not admissible in Law. It was further contended that appropriate confession before P.W. 1 is inadmissible as it is a statement hit by section 25 of the Indian Evidence Act. Learned Revisional Court vide judgment and order dated 29/01/2013 was pleased to allow revision application and thereby had set aside the order passed below Exhibit 72 by learned Judicial Magistrate First Class, Koregaon. The contents of the statements marked as Exhibit 67, 68 69 were to be de-exhibited and discredited. Hence, this writ petition.

18) Learned counsel for the petitioner has drawn the attention of this Court to section 17 (4) (C) of PCPNDT Act, 1994 which contemplates as follows:

“(4) The Appropriate Authority shall have the following functions, namely:

(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action”.

19) Section 17 has to be read in consonance with section 30 of the

said Act which contemplates that a documentary evidence in such cases would include statement of decoy witnesses, case history of the patient, the tape and video recording and other material collected as evidence in course of conducting tests. The complete evidence to be submitted before the Magistrate would include a copy of the complaint, a statement showing the list of the witnesses, both witnesses of the search and seizure and decoy witnesses, the report of the search and seizure or commonly called panchanama, copy of all documents collected, statements of witnesses, if any.

20) According to learned counsel for the petitioner, the Appropriate Authority has the power to record the statements of the witnesses and therefore, according to him, the said statements are produced before the Magistrate along with the complaint filed by the Appropriate Authority. It is therefore submitted that he has the power to prove the contents of the said statement.

21) As an extension to arguments advanced by the learned counsel for the petitioner, learned counsel for the respondent submits that since the Appropriate Authority investigates the complaints of breach of

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provisions of the said Act, he is an Investigating Officer and therefore, statement of the accused recorded by him would be necessarily hit by section 25 of the Indian Evidence Act and hence, in the course of recording of evidence of P.W. 1, statement of the accused cannot be exhibited. The proceedings under PCPNDT Act are initiated and conducted in accordance with Code of Criminal Procedure, 1973.

22) In the case of **Narbada Devi Gupta V/s Birendra Kumar Jaiswal (A.I.R. 2004 S.C. 175)** The Hon'ble Apex Court has held as follows.

“Mere production and marking of a document as exhibit by the court cannot be held, to be a due proof of its contents. Its execution has to be proved by admissible evidence that is by the 'evidence of those persons who can vouchsafe for the truth of the facts in issue'. The situation is, however, different where the documents are produced, they are admitted by the opposite party, signatures on them are also admitted and they are marked thereafter as exhibits by the court”.

23) This would imply that although P. W. 1 has referred all the statements of the witnesses, they cannot be considered as admissible evidence unless the said witnesses enter into witness box and

vouchsafe about the said aspects. Therefore, exhibition of the said documents may not have any significance.

24) Section 60 of the Indian Evidence Act reads thus;

“Oral evidence must be direct.—Oral evidence must, in all cases whatever, be direct; that is to say— If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it; If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner; If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds: Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable: Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of

such material thing for its inspection”.

25) It goes without saying that oral evidence must be direct in all cases. It is a cardinal Rule of evidence that the best available evidence should be brought before the Court.

26) In the present case, the Court cannot be oblivious of the fact that the evidence of Tanubai was recorded before framing of charge. She has resiled from her earlier statement. She has not supported the prosecution. In the cross-examination by the prosecutor, she has admitted that she along with Baidabai and Maya Pawar had been to the hospital. After examination, she was informed that the foetus is of four months. She has not identified accused before the Court. She has categorically stated;

“I do not know that Maya Pawar has given Rs. 2000/- to the accused”.

27) Similarly the evidence of Maya Pawar was also recorded before framing of charge. She has supported the prosecution. She has proved her previous statement recorded by P.W. 1. P. W. 4 Baidabai Madane was

also examined before framing of charge. She has also supported the prosecution. In the cross-examination she has admitted that she has come to the Court along with Shaila Jadhav.

28) The most important aspect is that the decoy witness to whom the sex of the foetus was disclosed has not supported the prosecution and therefore her statement cannot be proved through P. W. 1.

29) The questions that falls for determination by this Court as per the submissions of the respective counsel are as follows:

- (i) Whether Appropriate Authority is Investigating Officer?
- (ii) Whether Appropriate Authority has the powers to record the statements?
- (iii) Whether statement so recorded is previous statement as per section 161/162 of Code of Criminal Procedure, 1973?
- (iv) What is the evidentiary value of the statement of the accused recorded by the Appropriate Authority?
- (v) Whether the said statement is a confession and therefore hit by section 25 of Indian Evidence Act?
- (vi) Whether the statements recorded by Appropriate Authority

can be accepted in the course of recording of evidence of P. W. 1?

30) An Encyclopedic Law Lexicon defines “Appropriate” as follows;

The word 'Appropriate' is defined in Websters New Dictionary and Thesaurus is

“Applicable, apposite, appurtenant, appropos, apt”.

31) Section 30 of PCPNDT Act confers power upon Appropriate Authority to carry out search and seizure at the Genetic Clinic or Centre where Appropriate Authority has reason to believe that some offence under the PCPNDT Act, 1994 has been or is being committed.

32) Section 17 (A) of PCPNDT Act reads thus:

“Powers of Appropriate Authorities – The Appropriate Authority shall have the powers in respect of the following matters, namely -

- (a) summoning of any person who is in the possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
- (b) production of any document or material object relating to Clause (a);
- (c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex

determination; and

(d) any other matter which may be prescribed”.

Section 2 (h) of Code of Criminal Procedure, 1973 defines investigation;

“Investigation includes all the proceedings under this Code for the collection of evidence, conducted by the police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf”.

33) As far as the provisions of PCPNDT Act are concerned, the definition contemplated under section 2 (h) of Code of Criminal Procedure, 1973 will have to be split up into two parts.

(i) Investigation includes all the proceedings under this Code for the collection of evidence conducted by the police officer.

(ii) Or by any person authorised by a Magistrate.

34) It is apparent on the face of the record that although section 17 (c) empowers the Appropriate Authority to investigate the complaints, it cannot be said that Appropriate Authority is Investigating Officer as contemplated under section 2 (h) of Code of Criminal Procedure, 1973

since Appropriate Authority is neither a police officer nor a person authorised by a Magistrate. Therefore, investigation as contemplated under section 17 (c) of the said Act would only mean that Appropriate Authority is empowered to collect evidence and record the statements of decoy witnesses, other witnesses such as panch witnesses or the person who had passed on the reliable information etc. Appropriate Authority may seek explanation from the accused in order to give him a fair opportunity to put up his case before initiating criminal proceedings, however, the said statement, being a statement of the accused is not confessional statement nor is it a statement under section 162 of Code of Criminal Procedure, 1973. Even if the statement of the accused is in the form of an admission, it cannot be relied upon for the purpose of recording conviction. Accused has a right to defend himself at the trial.

35) In the facts of the present case, it is an admitted position that the complainant cannot prove the contents of the statement of the accused. At the end of the trial, accused has two options namely to offer his explanation under section 313 (1) and (2) of Code of Criminal

Procedure, 1973 and also examine witnesses in his defence. Learned Magistrate ought to have accepted the statement of the accused. Learned Magistrate has observed that the exercise of exhibition of a document is only for the purpose of identification and it does not amount to proving the contents of the said statement. In fact, Appropriate Authority can only state that he has recorded the statements of the witnesses, however, contents of the said statements would have to be proved by recording substantive evidence of the respective witnesses. Appropriate Authority is not Investigating Officer as contemplated under section 2 (h) of Code of Criminal Procedure, 1973.

36) In the case of **Somprakash Rakhi V/s Union of India and another (A.I.R. 1981 S.C. 643)** The Hon'ble Apex Court has observed that:

“ 'Authority' in law belongs to the province of power: Authority (in Administrative Law) is a body having jurisdiction in certain matters of a public nature. Therefore, the "ability conferred upon a person by the law to alter, by his own will directed to that end, the rights, duties, liabilities or other legal relations, either of

himself or of other persons" must be present ab extra to make a person an 'authority'. When the person is an 'agent or instrument of the functions of the State' the power is public. So the search here must be to see whether the Act vests authority, as agent or instrument of the State, to affect the legal relations of oneself or others. Sometimes the test is formulated, over-simplified fashion, by asking whether the corporation is formed by a statute or under a statute. The true test is functional. Not how the legal person is born but why it is created. Nay more. Apart from discharging functions or doing business as the proxy of the State, wearing the corporate mask there must be an element of ability to affect legal relations by virtue of power vested in it by law."

37) By virtue of powers conferred upon it by section 17 (4) (c) Appropriate Authority has the powers to investigate the complaints. By inference it can be said that Appropriate Authority has the powers to collect evidence, sufficient to enable the Appropriate Authority to file a complaint against the delinquent Medical Officer who is functioning in violation of the provisions of PCPNDT Act. The Court cannot be oblivious of the fact that before initiating complaint Appropriate Authority has to call for an explanation from the proposed delinquent

doctor and upon being dissatisfied with the explanation offered thereunder, he shall initiate prosecution and therefore this would answer the first two questions that Appropriate Authority has the powers to record the statement of the relevant witnesses or parties who can apprise Appropriate Authority of the commission of offence by delinquent doctor. Appropriate Authority or authorised officer has to give a notice of not less than 15 days in the manner prescribed before filing a complaint. Appropriate Authority, upon the nature of evidence collected by him must have a reason to believe that an offence under the Act has been committed by the Genetic Counselling Centre or the Genetic Clinic.

38) The Statute contemplates that no court shall take cognizance of an offence except upon a complaint filed by the Appropriate Authority or by three authorities under the provisions of section 28 of the said Act.

39) Needless to say that Appropriate Authority cannot be termed as Investigating Officer and therefore any statement made before him by the accused would not be hit by section 25 of the Indian Evidence Act.

The accused would be at liberty to take an independent defence irrespective of the explanation tendered before Appropriate Authority. The said statement cannot be termed as a confessional statement for the simple reason that prior to initiating criminal prosecution, the Statute contemplates that Appropriate Authority shall issue notice to the proposed accused and upon arriving at a conclusion that an explanation is not satisfactory, prosecution would be initiated. As far as present case is concerned, Appropriate Authority i.e. P. W. 1 can only depose before the Court that accused had admitted an offence before him at the threshold. The witness can only inform the court about all steps taken by him in the course of collecting evidence. The witness would be at liberty to tell the court about the statements made before him by different persons, however, the said statements will have to be proved through the deponent who is alleged to have disclosed the same to the Appropriate Authority. The statements made by the witnesses cannot be accepted in the course of recording of evidence of the scribe. The previous statement of a witness cannot be used as substantive evidence, it can only be used by the defence to contradict or discredit

any witness. The same exercise cannot be undertaken while cross-examining the scribe of the said statement. The witness would be at liberty to deny all that is said in examination-in-chief before framing the charge and therefore, it can be held that learned Magistrate has committed an error by accepting the statements of the witnesses and the accused while recording the evidence of P. W. 1. A witness can be confronted with his own statement.

40) Learned Magistrate has held that the purpose of accepting the document is only for convenience of the court and is a short cut method of identification of documents. This may be true in case of a document which may be admitted or denied under section 294 of Code of Criminal Procedure, 1973, however, the same exercise cannot be undertaken in proving the statement of a witness. The statement of the witnesses in a case as the present one would be hearsay evidence since P.W. 1 is not an eye witness. He has collected the evidence as narrated by the witness who had initially disclosed it to Advocate Varsha Deshpande. In fact, the Law requires evidence to be given under personal responsibility i.e. every witness must give his/her testimony

under such circumstances as would expose him to all the penalties of falsehood which may be inflicted by any of the sanctions of truth. Therefore, the principle that needs to be followed is that of second hand evidence whether all the contents of a document or of the language of a third person which is not connected by responsible testimony that the party against whom it is offered is to be rejected. A derivative or second hand evidence is excluded owing to its infirmity as compared with its original source.

41) Learned counsel for the respondent vehemently and rightly submits that exhibition of a document would mean that the contents of the document are proved. In the present case, P.W. 1 cannot prove the contents of a statement. The deponent would have to subject himself/herself to the test of cross-examination. In fact, in the evidence before charge, the contents of the statement have been proved by the respective witnesses except Tanubai. All this leads to the inference that Appropriate Authority is not Investigating Officer. That he has the powers to record the statement of the witnesses in the course of collecting evidence, sufficient to initiate prosecution. Collection of

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evidence to make out a case for initiating prosecution is an independent exercise. Investigating an offence and collection of evidence would operate in two different areas and are independent of each other. The admissibility of the said statements of witnesses will have to be considered in the course of recording substantive evidence of the respective witness. Statement of the accused recorded by the Investigating Officer is not a statement hit by section 25 of the Indian Evidence Act. The accused would be at liberty to deny the said disclosure statement or to raise a defence that the said statement was not a voluntary statement. The admissibility of the said statement can be examined only after recording of entire evidence is concluded and at the stage of 313 of Code of Criminal Procedure, 1973. In the course of recording statement under section 313 of Code of Criminal Procedure, 1973, the Court shall frame the question apprising the accused of the fact as to whether he had given a written explanation to the Appropriate Authority at the threshold. The said statement may be exhibited only for the purpose of identification of the document and for the convenience of maintaining and marking the records but it cannot

be said that the contents of the said statement of the accused are proved and the said statement cannot be used against the accused as no person can incriminate himself without being guarded in accordance with Law.

42) Hence, following order.

ORDER

- (i) Writ petition is dismissed.
- (ii) Clause 'C' of the operative order passed by Additional Sessions Judge Satara dated 29/01/2013 is hereby confirmed. Statements at Exhibit nos. 67, 68 & 69 be de-exhibited.
- (iii) It is made clear that contents of the statement of Exhibit nos. 67, 68 & 69 cannot be proved through evidence of P.W. 1.
- (iv) Statement at Exhibit 70 also be de-exhibited.
- (v) Record and proceedings be sent to the Court of Judicial Magistrate First Class, Koregaon.
- (vi) Rule is discharged.

(SMT. SADHANA S. JADHAV, J.)