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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 25 OF 2015**

Aliraza @ Salman Sirajuddin Shaikh ... Applicant

Versus

The State of Maharashtra ... Respondent

Ms. Naima Shaikh i/by Khan Abdul Wahab for the applicant.

Smt. V.S. Mhaispurkar, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : MAY 06, 2015**

P.C.

Admit. Heard finally.

2. The applicant has taken exception to the order of the learned Additional Sessions Judge whereby statement of the child witness was exhibited. The child witness was examined in support of the prosecution case where the applicant is facing trial for the offence punishable under section 302, 201 of Indian Penal Code. During the course of investigation, statement of child witness namely Saba was recorded. The statement of this witness was recorded with the help of P.W. no. 7 Mrs. Sayyed Fatima Huzur Alam. P.W. No. 7 was working as Trustee of Farjin Educational Trust. It is very clear that she had helped police in recording the statement of child witness. It is obviously not the statement made by the child to PW no. 7.

Therefore, the said statement clearly falls under section 161 of the Code of Criminal Procedure and could not have been exhibited. Such statements are used only for the purpose of contradictions and omissions. It is therefore, obvious that only contradictions and omissions in the statement are to be exhibited. The order passed by the learned Additional Sessions Judge, exhibiting the said document is contrary to law and needs to be set aside. The said order is therefore, set aside. The document exhibited at Exh. 34 be de-exhibited. The learned Additional Sessions Judge shall proceed in accordance with law. Application stands disposed of accordingly.

(JUDGE)