

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 905 OF 2015

Prakash Gopal Jadhav. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. S.R. Phanse, advocate appointed for Applicant.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 29, 2015

P.C.:

1 Heard the learned Counsel appointed for the applicant and the learned APP.

2 The Applicant herein is facing trial in Sessions Case No. 637 of 2012. The trial has commenced. The applicant is being tried for the offence punishable under Section 302 of the Indian Penal Code. It appears from the letter that the applicant is cross-examining the witnesses in person and has been denied legal aid. He is also seeking

direction that he shall not be provided with any legal aid/amicus curiae.

3 The learned Counsel appointed for the applicant submits that it is the valuable right of the accused to cross-examine the witnesses to substantiate his defence. However, the learned APP submits that it is clear from the records that the applicant herein is asking irrelevant questions to the witnesses. That it is not possible for the Court to control such an accused. In any case, prayer clause (1) has become infructuous.

4 The applicant also seeks to cross-examine witnesses on behalf of his brother. The said prayer cannot be considered unless the brother of the applicant files an application to that effect before the Court.

5 Learned APP submits that the applicant is obstructing smooth functioning of the Court. The learned Sessions Court may allow the

applicant to cross-examine the witnesses. However, the Presiding Officer shall take every care that no irrelevant questions are put to the witnesses and that the cross-examination shall be according to the facts of the case/trial which the accused is facing.

6 The prayer to cross-examine the witnesses in detail/in full/self satisfaction is rejected. It is true that an accused can not be denied the right to cross-examine any person or to conduct trial. However, the said trial is to be conducted in accordance with law and within four corners of the Indian Evidence Act.

7 Learned APP submits that P.W. 4 was cross-examined for 7 months. Such practice is deprecated and the Presiding Officer shall see to it that no lengthy cross-examination on the basis of irrelevant material and unwarranted facts is conducted. The Presiding Officer in a trial cannot be a silent spectator to the process of conducting the trial and it is incumbent upon the Presiding Officer to permit the Counsel or party in person to conduct the trial within four corners of

law and in consonance with the Indian Evidence Act.

8 In view of the above observations, the application stands dismissed.

9 Before parting, this Court appreciates the learned Counsel appointed for the applicant. Learned Counsel appointed for the applicant has taken inspection of the records and has made submissions to espouse the case of the applicant. The professional fees is quantified at Rs. 2,000/- to be paid to the learned Counsel so appointed Mr. S.R. Phanse within 3 months from this order.

Office to communicate this order to the applicant who is in jail.

(SMT. SADHANA S. JADHAV,J)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment/order.**