

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APL] No. 832 of 2015
[Amol Manoharrao Bhagat Vs. State of Mah. & another]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. S.A. Ashirgade, Adv., for the Applicant.
Mr. S.S. Doifode, APP for respondent no.1.

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CORAM : A.B. CHAUDHARI, J.

DATE : 27th November, 2015.

Heard learned counsel for the rival parties.
Perused the impugned order passed by the learned Trial Judge, which is an interlocutory order.

Be that as it may, para 6 of the reasons given by the Trial Judge in the impugned order are quoted hereunder:-

“6. When the cross-examination of the victim was going on, at that time the statement recorded u/s 164 of the Code of Criminal Procedure of the victim was on record. If accused did not hand over the said statement to his counsel, then the counsel can go through the record of the Court to see whether any such statement is there or not. Admittedly, at the time of recording of the evidence of complainant, said statement was on record. Therefore, merely because

accused did not provide copy of said statement to his learned counsel, that cannot be a ground to allow the said application for recalling of complainant. It appears that the accused is trying to fill up lacuna.”

The view taken by the learned Trial Judge is legal, correct and proper, as the provisions of Section 311, Criminal Procedure Code, cannot be utilized in the facts of the present case. Once the prosecutrix was examined and cross-examined, it is undesirable to call her again and accused had ample opportunity to cross-examine her even on the aspect of statement under Section 164, Criminal Procedure Code. That being so, I find no merit in the instant application. The same is rejected.

Judge

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