

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1409 OF 2015

Kamlesh @ Sonya Prakash Sonar
 Age : 23 years, Occu : Labour
 R/o : Deshmukhwadi, Pachora
 Taluka Pachora, District Jalgaon .. Petitioner

Vs.
 The State of Maharashtra .. Respondent

WITH
CRIMINAL APPLICATION NO. 4885 OF 2015

Kamlesh @ Sonya Prakash Sonar .. Applicant

Vs.
 The State of Maharashtra .. Respondent

AND
CRIMINAL APPLICATION NO. 142 OF 2016

Ratnaprabha W/o Mithu Wagh .. Applicant

Vs.
 The State of Maharashtra and anr. .. Respondents

Mr. N.S. Ghanekar, Advocate for the petitioner
 (WP/1409/2015), for the applicant (4885/2015) and for
 respondent no.2 in Cri. Appln. 142/2016
 Mr. P.P. Dhorde, Advocate for the applicant (142/2016)
 Mr. A.R. Kale, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.
DATE : 27/01/2016

ORAL ORDER :

Heard both sides.

2. For the reasons stated in Criminal Application No. 142 of 2016, seeking to assist the A.P.P., the same is allowed and disposed of.

3. Rule. Rule made returnable forthwith in Criminal Writ Petition No.1409 of 2015. Heard finally, with consent of both the sides.

4. Upon hearing both sides, it is gathered that the trial is at the fag end. Only 2-3 witnesses including the Investigating Officer, photographer are required to be examined. The reading of the examination-in-chief of PW16 - the Medical Officer would show that not only the unproved purported photographs of the dead body were placed before him to seek his opinion, even certain leading questions were put and it appears that on the insistence of present petitioner/accused, the questions are also quoted.

5. Considering all this material on record, the criminal writ petition is allowed. Part of the evidence of the Medical Officer from paragraph no.7 onwards is hereby declared as inadmissible. However, the State would be at liberty to examine the Medical Officer by

recalling him, if the photographs are proved and the examination of the Medical Officer would be taken as per the rules of evidence.

6. Since the trial is at the fag end, the prosecution is directed to conclude the part of the evidence from its side within a period of three (3) months from the date of this order.

7. In case, the evidence could not be concluded by the prosecution within the above period, the petitioner would be at liberty to file application for his release on bail.

8. With these observations, the writ petition as well as the Criminal Application no. 4885 of 2015 are disposed of.

9. Rule made absolute accordingly in criminal writ petition no. 1409 of 2015.

[M.T. JOSHI]
JUDGE

arp/