

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 69 OF 2017

Amir Abdullesh Shaikh	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.Rishi Bhuta, Advocate for the Applicant.
Mr.N.B. Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 28, 2017.

P.C. :

The applicant has challenged the order dated 12th November, 2016 passed by the Sessions Judge in Sessions Case No.192 of 2014. The applicant is being prosecuted for an offence punishable under Sections 376, 504 and 420 of IPC. During the course of investigation the investigating authority has seized Laptop, Pendrive and Mobile from the applicant - accused vide panchamama dated 17th May, 2014. The said articles were sent to Forensic Science Laboratory for the purpose of collecting the evidence. The Forensic Science Laboratory has recovered 76 case related image files and one case related video file from the hard disk and compact disk.

2 The applicant moved an application under Section 207 of Cr.P.C. Before the Sessions Judge, Dinodshi and demanded the copies of CD's which are 76 case related image files and one case related video file. The said application was rejected by the Sessions Court by order dated 12th November, 2016. The Sessions Judge while rejecting the said application have observed that the CD's containing images and videos were to the advocate in the presence of Superintendent. It was further observed that the CD's are containing objectionable photos of the victim and there is likelihood that the accused may misuse the same.

3 Learned counsel for the applicant submitted that in the interest of justice, the relief as sought in the said application ought to have been granted by the trial Court. It is submitted that the accused has a right to defend himself from the prosecution and in the light of the provisions of Section 207 of Cr.P.C., the copies as prayed for ought to have been supplied to him. Reliance is placed on the decision of the Delhi High Court in the case of ***H.J. Choudhari Vs. State***¹.

1 CDJ 1984 TSC 04

4 Learned APP submitted that in view of the fact that the inspection of the CD and videos was given to the advocate for the accused, relief as prayed for by the applicant may not be granted. It is submitted that the accused is likely to misuse the images and video, if given to him.

5 I have perused the documents on record. It is true that the images and video contains some objectionable photographs of the victim. However, the right of defence of the accused also will have to be taken into consideration and also considering the interest of victim balanced view will have to be taken.

6 In view of the above, I pass the following order:

:: ORDER ::

- (i) In the event the prosecution relies upon the images and the video which are the subject matter of the Sessions Case No.192 of 2014, the same shall be shown to the accused in the presence of advocate for the applicant-accused and the Superintendent (Session Court,

Dindoshi). However, copy of the same shall not be given to the applicant - accused or his advocate nor they be allowed to carry any electronic gazette during the course of inspection.

- (ii) The inspection, as referred herein above shall be given to the accused by prior intimation to the advocate for applicant - accused;
- (iii) Criminal application is disposed of accordingly.

(PRAKASH D. NAIK, J.)