

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

WRIT PETITION NO. 246 OF 2008

The State of Maharashtra

..Petitioner

v/s.

Ravindra A. Konapure

..Respondent

Mr. S.V.Gavand APP for the Petitioner State.

Mr. Prasad B. Kulkarni for the Respondent.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 06, 2017.**

P.C.

1. By this petition, the prosecution has challenged the Order dated 24th October, 2007 whereby the learned Special Judge, Pandharpur had dismissed the application filed by the petitioner State seeking permission to conduct Narco Analysis Test and Lie Detector Test on the respondent No.1.

2. Heard Mr. Gavand, learned APP for the State and Mr. Kulkarni, learned Counsel for the respondent. Perused the records. It is to be noted that in ***Smt. Selvi and Ors. Vs. State of Karnataka reported in 2010 (3) Supreme 558***, the Honourable Apex Court in para 192 of the said judgment has held thus:

“192. So far, the judicial understanding of privacy in our country has mostly stressed on the protection of the body and physical spaces from intrusive actions by the State. While the scheme of criminal procedure as well as evidence law mandates interference with physical privacy through statutory provisions that enable arrest,

detention, search and seizure among others, the same cannot be the basis for compelling a person 'to impart personal knowledge about a relevant fact'. The theory of interrelationship of rights mandates that the right against self-incrimination should also be read as a component of 'personal liberty' under Article 21. Hence, our understanding of the 'right to privacy' should account for its intersection with Article 20(3). Furthermore, the 'rule against involuntary confessions' as embodied in Sections 24, 25, 26 and 27 of the Evidence Act, 1872 seeks to serve both the objectives of reliability as well as voluntariness of testimony given in a custodial setting. A conjunctive reading of Articles 20(3) and 21 of the Constitution along with the principles of evidence law leads us to a clear answer. We must recognise the importance of personal autonomy in aspects such as the choice between remaining silent and speaking. An individual's decision to make a statement is the product of a private choice and there should be no scope for any other individual to interfere with such autonomy, especially in circumstances where the person faces exposure to criminal charges or penalties."

3. In the present case, it is not in dispute that the respondent has not consented for Narco Analysis Test or any other test. In view of the said fact and in view of the finding of the Apex Court in Selvi (supra) the respondent cannot be subjected to Narco Analysis test.
4. The petition, therefore, has no merits and is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)