

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.444 OF 2017

Ram s/o Ganpat Gaikwad

..vs..

State of Mah., thr. Police Station Officer, Police Station Sonegaon, Nagpur

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

Court's or Judge's Order

Shri A.A. Bhangde, Counsel for the applicant.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 11, 2017.

The applicant is facing charge for the offences punishable under Sections 376D, 452, and 323 of the Indian Penal Code read with Section 3(1)(xi)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel Shri A.K. Bhangde for the applicant submits that a chance should be given to the present applicant for cross-examining the prosecutrix, in the interest of justice.

The prosecutrix was examined by the prosecutor. On 3.2.2016 for recording her examination-in-chief, she herself made available for her cross-examination. The present applicant is accused No.2 in the Trial. Learned counsel representing applicant/accused No.2 filed a Pursis Exhibit 30

stating that he is not having any instructions from the present applicant. Thereafter, the prosecutrix was cross-examined by learned counsel for accused No.3 who also the counsel for the present applicant. The prosecutrix was also cross-examined by the applicant.

The cross-examination of the prosecutrix was over on 3.2.2016. Thereafter, the prosecution has examined in all 11 witnesses. On 20.4.2017 an application is moved by the present applicant that the prosecutrix be re-called for giving an opportunity of the cross-examination. The Court has ample power to re-call any witness for the cross-examination or the further cross-examination. However the party re-calling such witness has to demonstrate with reasons as to why re-calling is necessary and must.

The application for re-calling of the prosecutrix is vague as it could be. Merely because the applicant has change Advocate, that cannot be a ground for moving the application for re-call in order to cross-examine the prosecutrix.

Therefore, I see no reason to interfere with the order passed by learned Judge of the Court below refusing to accept the prayer for re-calling of the prosecutrix. The application is rejected.

JUDGE

!! BRW !!

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