

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

CRIMINAL APPLICATION (APL) NO.811 OF 2017

Pramod Devaji Chaple, R/o Sironcha, Tq. Sironcha, Dist. Gadchiroli

-vs-

State of Maharashtra, Thr. PSO, P.S. Sironcha, Dist. Gadchiroli

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

Court's or Judge's Orders.

Shri V. N. Morande, Advocate for applicant.
Ms Shamsi Haider, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : December 08, 2017

The applicant who is facing trial in Special POCSO Case No.20/2015 on the file of Additional Sessions Judge, Gadchiroli, has filed the present application being aggrieved by the order dated 13/10/2017 passed below Exhibit-104 by which the application moved by the applicant under Section 310 of the Code of Criminal Procedure, 1973 has been rejected.

It is submitted on behalf of the applicant that after the prosecution led its evidence, the application under Section 310 of the Code was moved praying that the spot of occurrence be inspected by the Court so as to enable it to properly adjudicate the trial. This application was however rejected by the trial Court observing that it was not permissible for the Court to visit the spot and ascertain the exact height of the bridge in question. Reliance is placed on the decisions in *State of Kerala, v. Chandran and ors. 1974 Cri.L.J. 52* and

Abdul Karim Kasam Virani vs. The State of Maharashtra and anr. 1974 Cri.L.J. 514.

The application is opposed by the learned Additional Public Prosecutor on the ground that the trial Court has in exercise of discretion rightly refused to entertain the application.

After hearing the learned counsel, I find that though the order passed by the trial Court may not be happily worded, it observed that it did not find any need to visit the spot in question for purposes of inspection. The power conferred by Section 310 of the Code is discretionary in nature and the purpose is to properly appreciate the evidence at the trial. The trial Court after considering the material on record having observed that it was not necessary to visit the spot, I am not inclined to interfere with the said interlocutory order.

By clarifying that it would be open for the applicant to demonstrate that the evidence led by the prosecution does not prove its charge and keeping all contentions in that regard open, the criminal application is disposed of.

JUDGE