

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

CRIMINAL WRIT PETITION NO.3303 OF 2017

Manisha Shimpugade

.. Petitioner

Vs.

State of Maharashtra

.. Respondent

.....

Mr.A.S. Khandeparkar a/w. Mr.Rajdeep D. Gude I/b.
M/s.Khandeparkar & Associates, Advocate for the Petitioner.
Mr.A.R. Patil, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : JULY 17, 2018.

P.C. :

The petitioner is prosecuted under the provisions of Section 13(1)(d) of the Prevention of Corruption Act, 1988. The proceedings are pending before the Special Court vide Special Case No.12 of 2015. The prosecution case is that the petitioner had demanded an amount of Rs.400/- for the purpose of giving the extract of the original record. The petitioner filed an application before the learned Special Judge, Sindhudurg on 19th December, 2016 for furnishing copy of the alleged recorded conversation between the petitioner and the first informant which was recorded in memory card. The said application was rejected

on 7th January, 2007. Hence, the petitioner has preferred this petition before this Court.

2 It is submitted that the copy of the alleged conversation is required in order to prepare for defence and effectively defend her qua the charge framed against the petitioner. It is necessary to verify whether the transcription provided to her is true and correct *qua* the recorded conversation and the same can be done only if copy of the said conversation is proved to her.

3 Learned Special Judge by order dated 7th January, 2017, declined to furnish the copy of the said recording. It was observed that while copying the conversation in the form of C.D. from Memory Card, there is likelihood of damage being caused to the said conversation. The petitioner-accused was, however, permitted to hear the conversation in the presence of the officers of the Court. The said application was disposed of on 7th January, 2017.

4 It is submitted that for the reasons submitted hereinabove, it will be appropriate to have a copy of the

conversation in the form of CD in order to defend the petitioner in proper perspective. Learned counsel for the petitioner relied upon the order passed by this Court in Criminal Writ Petition No.883 of 2017 in which this Court had observed that in order to ascertain as to whether copy of the CD can be supplied to the petitioner, report of the investigating officer was called in the matter. Vide report submitted to Court, it was indicated that the Memory Card in which the alleged conversation was recorded has been deposited in the trial Court, and, as such expressed inability to provide the copy of the same. It was further observed that the trial Court had observed that the Memory Card is likely to be damaged in the process of copying. However, in the opinion of the expert which was pointed out to the Court, there is no impediment in preparing CD from the Memory Card. The learned counsel submitted that in the light of the opinion of expert as is referred to in the said decision, there is no likelihood of damage to Memory Card for preparing copy of CD. Thus, no prejudice will be caused to prosecution if the relief sought is granted.

5 In the circumstances, there is no impediment in allowing the reliefs sought in this application.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Writ Petition is allowed;
- (ii) Impugned order dated 7^t January, 2017 below Exhibit - 12, to the extent of not providing copy of the purported conversation is set aside and the respondent is directed to make available copy of the recording of conversation in the form of CD in Special Case No.12 of 2001;
- (iii) Writ Petition stands disposed of accordingly.

(PRAKASH D. NAIK, J.)