

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

CRIMINAL REVISION APPLICATION NO.467 OF 2018

Ramshiromani Aadhyaprasad Pandey ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.A.G. Lalla with Ms.B.H. Bajwa, Ms.Aanchaul Lalla and Pooja Yadav I/b Lalla & Lalla for the Petitioner

Mr.Ameet Palkar, APP, for the Respondent – State

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: OCTOBER 12, 2018**

P.C.:

1. This revision application is filed against the order dated 16.7.2018 passed below exhibit 135 in NDPS Special Case No.54 of 2014 by the learned Special Judge under NDPS Act, Greater Mumbai. The evidence of the prosecution is over. The accused has examined two defence witnesses and at the time of recording their evidence, the accused wanted to produce a secondary evidence in the form of a CD of the incident dated 28.12.2013 which was recorded in the DVR with the help of CCTV camera, that was installed in the building compound of the present applicant i.e., accused No.1. The said application was rejected.

2. The learned Counsel for the applicant/accused has submitted that the CCTV cameras were installed in the compound of the building of the accused and the applicant/accused is charged and prosecuted for the offence of possessing 7 kgs. of contraband 'Ketamine' on 28.12.2013. The learned Counsel submits that the DVR of the CCTV camera has a fixed mechanism of preserving recorded images and footage for only 26 days and, therefore, the accused has prepared the CD of that recording of the relevant time and now he wants to produce the said CD as a secondary evidence, through his witness. He submits that it should have been allowed by the learned Special Judge.

3. Learned Prosecutor submitted the order of the learned Special Judge.

4. Heard submissions. The applicant/accused wants to lead documentary evidence in the nature of CD. It appears that this CD, as per the submissions of the learned Counsel for the applicant/accused, is a record of the recorded images which were caught in the DVR of the CCTV camera. However, the images cannot be stored for more than 26 days and they automatically get

deleted. Hence, this CD was specially prepared by way of defence.

5. In view of the submissions of the learned Counsel, the secondary evidence in the form of CD is allowed. It is made clear that the learned Special Judge under NDPS Act has to assess the evidence on the basis of other oral and documentary evidence and the circumstances. Allowing the evidence on record does not mean believing the evidence. The trial Court may believe that evidence or may discard the evidence, if found credit worthy.

6. With the above directions, the application stands disposed of.

(MRIDULA BHATKAR, J.)