

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

CRIMINAL WRIT PETITION 409 OF 2018

(Shahbaz Shah s/o Jabir Shah...vs.. The State, thr PSO PS Telhara)

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

Court's or Judge's orders.

Shri A.B. Mirza, counsel for petitioner.
Smt. S.V. Kolhe, Additional Public Prosecutor for respondent.

CORAM: ROHIT B. DEO, J.

DATE: 3rd May, 2018.

Heard.

2 The petitioner is facing trial for offence punishable under section 354(1)(4) read with section 504, 506 of Indian Penal Code and under section 8,12 and 11 of Protection of Children from Sexual Offences Act. The prosecution has closed the evidence and the statement of the petitioner – accused under section 313 of the Criminal Procedure Code is recorded by the learned Sessions Judge.

3 The accused stepped into the witness box as DW-1. At this stage, the petitioner – accused moved three applications. The first application Exh. 73 is an application for calling information of true caller record of mobile 7385805234, the second application Exh. 74 seeks information as regards the ownership of mobile 7385805234 and the third application

Exh. 75 is an application for calling for the record of mobile 8421952873, of the accused.

4 The allegation against the petitioner is that he misbehaved with the minor victim. The accused made gestures, pulled the odhni (stole) of the victim, passed offensive and objectionable comments and handed over to the victim a slip with the phone number of the petitioner. The learned Sessions Judge, while rejecting the applications has inter-alia recorded a finding that in the teeth of the allegations for which the accused is facing trial, the call records are not relevant. I see no reason to take a different view. In so far as application Exh. 73 is concerned, the additional reason given by the learned Sessions Judge is that the true caller record is nothing more than the collection of details by the concerned company and can not be treated as authentic record. In so far as Exh. 74 is concerned, the reason recorded by the learned Sessions Judge is that confirmation of the ownership of the mobile belonging to the sister of the victim has no nexus whatsoever with the allegations against the accused. In so far as application Exh. 75 is concerned, the learned Sessions Judge has observed that the call record details of the mobile of the accused can be proved by the accused by taking appropriate steps.

5 I do not find any infirmity whatsoever in any of the reasons recorded by the learned Sessions Judge. The

accused is free to examine such defence witnesses including the witnesses to prove the call record, if according to the accused the record is vital to probabilize the defence.

7 The petition is sans substance, and is rejected.

JUDGE

rsb