

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

CRIMINAL WRIT PETITION NO.164 OF 2019

Manish Krishna Kalburgi

... Petitioner

Vs.

The State of Maharashtra

... Respondent

Mr.Satyavrat Joshi for the Petitioner

Ms.Veera Shinde, APP, for the Respondent – State

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JANUARY 23, 2019**

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. This petition is directed against the order dated 3.1.2019 passed by the learned Assistant Sessions Judge, Pune, below exhibit 53. The petitioner is facing trial under section 306 of the Indian Penal Code. The statements of the witnesses under section 313 is for recording and the matter is fixed for statement of the accused under section 313 of the Criminal Procedure Code. At the relevant time, an application to recall the prosecution witness i.e., PW5 is moved by the petitioner/accused under section 311 of the Criminal Procedure Code.

3. The learned Counsel for the petitioner has submitted that after the examination of PW5, who was a colleague of the deceased in college, the accused came across some material i.e., messenger chat between the deceased and PW5 disclosing the torture of the deceased at the hands of the management and, therefore, it is submitted that the witness PW5 is to be recalled.

4. Learned Prosecutor submits to the orders of the Court.

5. Perused the order passed by the learned Sessions Judge as also the transcripts of the chat between PW5 and the deceased. Nothing is shown to recall any witness. No ground is made out to recall any witness. The order passed by the learned Sessions Judge is legal and no interference is required in it. Hence, the petition is dismissed summarily.

(MRIDULA BHATKAR, J.)