

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1081 OF 2019

Ganesh Nivrutti Marne : Applicant
versus
The State of Maharashtra : Respondent.

Mr. Sudeep Pasbola a/w Mr. Karl Rustom Khan i/by Mr. Prajyot Shrivastav for
the Applicant.
Mr. A R Patil, APP for the Respondent/State.

CORAM : S. S. SHINDE, J
DATE : 16th August 2019

P.C.

1 Heard the learned counsel for the Applicant and the learned APP
for the Respondent/State.

2 Perused the reasons assigned by the learned Additional Sessions
Judge and Additional Special Judge under MCOC Act, Pune in paragraph 9 of
the impugned order dated 03/08/2019 passed below Exhibit 1049. It appears
that pursuant to the liberty granted to the Applicant by this Court in Criminal
Application No.832 of 2019 by order dated 02/08/2019, the said application
(Exhibit 1049) came to be filed before the Special Judge. It appears that the
relevant averments that why accused No.7 i.e. the Applicant herein wants to
recall the said 7 witnesses, (whose names have been mentioned in the said
application) for further cross examination have not been made in the said

application. Therefore, the Special Judge has rightly observed in paragraph 9 of the said order that it was necessary for accused No.7 to clarify as to why necessitates him to recall the said 7 witnesses for further cross examination.

3 In that view of the matter, the learned counsel appearing for the Applicant fairly concedes that in the said application (Exhibit 1049) there are no averments made by accused No.7 i.e. Applicant herein as to why accused No.7/Applicant wants to recall those 7 witnesses for further cross examination. He submits that there are serious allegations and charge alleged to have been made against accused No.7/Applicant, and therefore, in the interest of justice one more opportunity is required to be given to accused No.7/Applicant to file a fresh appropriate/proper application containing therein the averments as to why accused No.7/Applicant wants to recall those 7 witnesses for further cross examination.

4 It is true that the trial has substantially progressed and is at the stage of arguments. It is also true that there are directions issued to conclude the trial within a stipulated time/period. However, one more opportunity needs to be given to accused No.7 i.e. the applicant herein to file an appropriate/proper application before the said Court as to why accused No.7/Applicant wants to recall those 7 witnesses for further cross examination. Therefore in the interest of justice, and considering the fact that the applicant

is facing serious charge under various sections of Indian Penal Code including Sections 120-B, 302, 307 r/w 120-B and 427 r/w 149 and 109 and Section 3(1)(i), 3(2) and 3(4) of the MCOC Act, 1999, the present Criminal Application stands disposed of with liberty to the Applicant to file a fresh appropriate/proper application by 17th August 2019 before the concerned Court containing therein the averments as to why applicant wants to recall those 7 witnesses for further cross examination. Needless to state that if such an application is filed by the applicant, the same would be decided on its own merits and in accordance with law uninfluenced by the observations made in the impugned order as well as in the present order. The concerned Court to decide the said application expeditiously.

5 The concerned parties to act upon an ordinary copy of this order duly authenticated by the Court Sheristedar.

[S. S. SHINDE , J]