

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

CRIMINAL WRIT PETITION NO.997 OF 2018

(Sau. Samreen w/o Abdul Shakil Qureshi ..vs.. The State of Maharashtra, through PSO, PS Wadi and another)

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

Court's or Judge's orders

Shri E.W. Nawab, Counsel for the petitioner,
Shri J.Y. Ghurde, Addl.P.P. for the respondents.

**CORAM : P.N. DESHMUKH AND
ROHIT B. DEO, JJ.**

DATED : 05-03-2019

Petitioner by invoking provisions of this Court under Article 226 of the Constitution of India has prayed for issuing appropriate directions to respondents in Crime No.386/2017 registered for the offences punishable under Sections 498-A, 392, 406 read with Section 34 of the Indian Penal Code to record statements of witnesses as stated by them and to read over their statements. Further prayer is for direction to respondent No.2 to initiate appropriate enquiry against the police officer who recorded statements by omitting material facts and to seize all the ornaments of the petitioner whatsoever are stated in the report. The prayer with regards to enquiry against senior officers for omitting material facts while recording statements as well as part of prayer (i) to issue directions to respondents to record statements of witnesses as stated by them and to read over to the witnesses when considered in fact finds to be

unwarranted for to seek the same by filing petition seeking direction as aforesaid as petitioner during the course of trial shall very much avail recourse whatsoever is available under law, by cross-examining the witnesses and can bring on record omissions, contradictions whatsoever according to the petitioner, would occur at the time of recording of evidence.

2. In fact perusal of affidavit-in-reply of respondents would reveal that during the course of investigation, statements of Sajid Salam Kanoje, Mohd. Shahid Salam Kanoje and Farjana Salam Kanoje are recorded as stated by them and were read over to said witnesses who admitted same to be recorded as stated by them as such. At this stage, there is nothing to doubt contention as put forth by State in its affidavit-in-reply. Moreover, we cannot travel beyond, in any other manner to bring on record facts if any or otherwise are stated by any witness, or if their statements find any fact which they have not stated to police as these facts can be brought on record by adopting recourse of cross-examination of witnesses whose statements are recorded under Section 161 of the Criminal Procedure Code, which can be subjected to scrutiny as contemplated under Section 162 of the Criminal Procedure Code at the time of trial.

3. In that view of the matter, no directions as prayed by the petitioner can be granted in the present petition.

Similarly, except for praying for direction to respondent No.2 to seize all ornaments of petitioner nothing is substantiated as to what ornaments are not seized, which aspect as such cannot be considered effectively.

4. Having considering the affidavit-in-reply of State wherein it is specifically stated by respondent No.1 that the statements are recorded as stated by the witnesses and are read over to them who admitted same to be recorded as stated by them, we find no reason to issue any direction to initiate enquiry, against any police officer for not recording statements as stated by the witnesses as alleged which aspect even otherwise cannot be established merely by stating so in the petition.

5. In that view of the matter, we find no substance in the petition. Petition stands disposed of as dismissed.

6. Needless to state that above issue is kept open and shall be duly considered by the learned trial Court, on recording evidence of witnesses in trial.

JUDGE

JUDGE

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