

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.405/2020

RAHUL SHRISHAIL BANGONDE ... PETITIONER

Versus

THE STATE OF MAHARASHTRA RESPONDENTS.

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Mr. Rushikesh Kale, Advocate i/b Mr. V. V. Purwant for the
Petitioner.

Mr.S.V. Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 27TH JANUARY 2020

P.C. :

1 Heard learned counsel for the petitioner at sufficient
length of time.

2. Order dated 06.01.2020 passed on application-Exhibit 87,

is impugned in this petition. By the said application, it was prayed to the learned trial court that CCTV footage be shown to Rahul Bangonde while recording his examination-in-chief. Learned counsel for the petitioner argued that the case is based on circumstantial evidence and if C.C.T.V. footage is shown to the witness then, there is possibility of establishing charge against the accused persons. He submits that the accused is brother-in-law of PW 14-Rahul Bangonde as such, this witness is in a position to identify him. Learned counsel further relied on the Judgment of Hon'ble **Apex Court in the matter of Shafhi Mohammad Vs. State of Himachal Pradesh, 2018 SCC 801**, to submit that in a fact situation of the instant case, it is not necessary to produce the Certificate under Section 65-B of the Evidence Act. Learned APP opposed the petition.

3. I have considered the submission so advanced and perused the material placed before me. Mrs. Gangabai

Bangonde, according to the prosecution case, died homicidal death on 12.6.2017. On that day, PW 14 Rahul Bangonde was at Tripura. He returned on 13/6/2017 after funeral of his mother Gangabai was over. Then he saw C.C.T.V. footage recorded by C.C.T.V. Camera of 'Swami Samarth Classes'. He came to know that one person came on a motorcycle by wearing Helmet and covering the number plate with a means of a cloth. By looking at C.C.T.V. footage PW 14 Rahul has stated before police that physical appearance on the person on motorcycle seen in C.C.T.V. footage is matching with that of his brother-in-law Siddhgonda Patil who is accused.

4. On this back-drop, by moving an application it was prayed before the learned trial court that C.C.T.V. footage recorded by CCTV camera of 'Swami Samarth Classes' be shown to the witness. By the impugned order the learned trial court has observed that, opinion of PW 14 Rahul Bangonde on this aspect, can not be sought by moving such

application.

5. Upon perusal of the impugned order it is seen that the learned trial court has rightly refused to get opinion of PW 14 Rahul Bangonde through his evidence as basically PW 14 Rahul is a witness of fact. Learned trial court can consider opinion if such opinion comes from Expert witness. Section 45 of the Indian Penal Code provides that opinion given by 3 category of persons is relevant in such contingencies viz. persons specially skilled in foreign law, science or art. Such experts can give opinion which the court can consider for deciding issues involved before it. However, a layman can not give opinion before the Court and the Court is not obliged to act upon evidence of witness of fact.

6. In this view of the matter, it can not be said that the learned trial court erred in rejecting the request to show the C.C.T.V. footage to PW 14 Rahul Bangonde during the course

of recording of his evidence. No infirmity is, therefore, found in the impugned order. Petition, therefore, fails and is dismissed.

(A.M.BADAR, J.)