

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.52 OF 2018

AMIR ABULESH SHAIKH

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.

)...RESPONDENTS

Mr.Rishi Bhuta a/w. Mr.Ujjwal Gandhi a/w. Ms.Gunjan Thakkar a/
w. Mr.A.Dubey a/w. Mr.Anurag Ghag, Advocate for the Applicant.
Mr.S.V.Gavand, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 23rd JANUARY 2020

PC. :

1 By this application, the applicant/accused in Sessions
Case No.192 of 2014 is challenging action on the part of the
learned trial court in exhibiting the list of documents as Exhibit
17, during the course of recording of evidence of PW1 in that
case.

2 Heard the learned counsel appearing for the applicant/accused and the learned APP appearing for the State. They both are unanimous in stating that a witness cannot produce any document on record of the trial court during the course of recording evidence.

3 What happened in the instant case is that during recording of evidence of PW1, who happens to be the prosecutrix, she tendered some documents on record viz. Compact Disc of conversation, print out of messages without giving copies thereof either to the prosecution or to the accused. The learned trial court then exhibited the list of those documents as Exhibit 17. The applicant/ accused is apprehending that by such course of action, the learned trial court may read those documents in evidence.

4 Apprehension of the applicant/accused that documents produced along with list Exhibit 17 by PW1 shall be read in evidence is totally misplaced. What is relevant and material is only the police report or supplementary report filed by the Investigating Officer by resorting to provisions of Section

173(8) of the Code of Criminal Procedure. Documents filed by witness cannot be relied on for deciding sessions cases. It appears that the learned trial court has only exhibited the list of witnesses. The purpose thereof seems to be for identification. By such action, documents produced with that list cannot become proved documents so as to read them in evidence for the purpose of deciding the sessions case.

5 With this clarification, the instant criminal application stands disposed off.

(A. M. BADAR, J.)

Arti V.
Khatate

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