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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1307 OF 2021

Amir Abulesh Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Ankita Bamboli a/w Mr. Anurag Ghag for the Applicant.

Mrs. Anamika Malhotra, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 16th MARCH, 2022

P.C. :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.
3. By this application, the applicant has impugned the order dated 12th October, 2021 passed by the learned Additional Sessions Judge at Dindoshi, below Exhibit-41 in Sessions Case No. 192 of 2014, by which, the learned judge, without deciding/considering the applicant's application

on merits, simply imposed costs on the applicant.

4. Perused the papers. The applicant/accused is facing trial for the offences punishable under Sections 376, 506, 420 of the Indian Penal Code. During the course of trial, i.e. after charge was framed, PW-1 i.e. the complainant stepped into the witness box on 2nd January, 2018, on which date, her examination-in-chief was recorded by the prosecution. Thereafter, the matter was posted for recording the cross-examination of PW-1.

5. Since according to the applicant/accused, during the course of investigation, the Police had recorded the statement of the owner of the cottage i.e. Ferrera Picnic Cottage, Manori Village, Malad(West) Mumbai-400 067, and had also seized the register containing the check-in details from the period 15th November, 2013 to 7th December, 2013, the petitioner filed an application seeking the details of the said register. Learned Counsel relied on the statement recorded of the cottage owner i.e. Mr. Roshan Ferrera dated 16th May, 2014 during investigation. The said statement is on page 18 of the application. From the said statement, it appears that the Police had seized the register from the said cottage. Pursuant thereto, the learned Counsel for the applicant filed an application

and sought a copy of the said register, since the same was not provided to the applicant. By the said application, the applicant sought the following relief;

“(a) This Hon’ble Court be pleased to direct the Respondents to serve the seized copies of Ferrera Picnic Cottage Entry Register to the Accused in the interest of Justice.”

6. The said application was opposed by the prosecution, as according to the prosecution the said register was not part of the chargesheet.

7. The applicant is facing a serious prosecution under Section 376 of the Indian Penal Code. The learned Judge ought to have decided the said application, one way or the other by passing an appropriate order and not simply impose cost of Rs.200/- without deciding the said application.

8. Learned Counsel for the applicant assures that the applicant will not protract the trial and delay the trial and will remain present on all dates given by the trial Court. She submits that all that the applicant is praying for is a direction to the respondent to serve the copies of the seized register on the basis of the statement made by the owner of the cottage.

The learned Sessions Judge ought to have either allowed or rejected the said application, instead of keeping the application pending on the ground that the case is an old case.

9. Considering the aforesaid, the impugned order dated 12th October, 2021 cannot be sustained and the same is quashed and set aside. The learned Judge, to decide the said application (Exhibit-41) as expeditiously as possible and in any event, within one week from the date of receipt of the said order.

10. All contentions of all parties are kept open.

11. It is made clear that this Court has not gone into the merits of the said application.

12. Rule is made absolute on the aforesaid terms and the application is accordingly disposed of.

13. All parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.