

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

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WRIT PETITION NO. 6396 OF 2021

Kirit Purushottam Kapadia ... Petitioner
Versus
Dinesh Shantilal Sheth and Anr. ... Respondents

Mr. S. S. Redekar for the Petitioner.
Mr. S. R. Aagarkar, APP for the State.

CORAM: N. J. JAMADAR, J.
DATE : 25th APRIL, 2022

P.C. :-

1. Heard the learned counsel for the petitioner. The challenge in this petition is to an order passed by learned Metropolitan Magistrate, 40th Court, Girgaon, Mumbai, whereby the learned Magistrate directed that the statement of accused under Section 313 of the Criminal Procedure Code, 1973 be recorded through video conferencing.

2. Though the notice of this petition has been served on respondent no.1-accused none appears for the respondent no.1.

3. Mr. Redekar, learned counsel for the petitioner express an apprehension that in case the statement of the accused under Section 313 of the Code is recorded through video conferencing, there is a possibility that the accused may be tutored. It was further submitted that it is only exceptional circumstances, the statement of the accused can be recorded through video conferencing.

4. The learned Magistrate was persuaded to direct that the statement of the accused be recorded through video conferencing as, in the application, the accused claimed that he had been bedridden due to brain stroke and was advised to take complete bed rest. The Magistrate has exercised the discretion to record the statement of accused under Section 313 of the Code through video conferencing, in the peculiar facts of the case.

5. No interference is warranted in the impugned order. However, to take care of the apprehension on the part of the petitioner-complainant, it would be suffice to direct that the learned Magistrate should permit either the complainant or the advocate for the complainant to remain present at the place wherefrom the accused gives answers to the questions under Section 313 of the Code through video conferencing.

6. With the aforesaid clarification, the petition stands disposed.

[N. J. JAMADAR, J.]