

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

CRIMINAL APPLICATION [APL] NO. 166/2020.

State of Maharashtra.

-VERSUS-

Mohd.Rajik Abdul Ajij Saudagar.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Ms.M.H. Deshmukh, A.P.P. for the Applicant.
Shri R.M. Mardikar, Advocate for Non-applicant.

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CORAM : VINAY JOSHI, J.

DATE : JULY 19, 2022.

Heard finally by consent of the learned Counsel
appearing for the parties.

2. The applicant State has called in question the order dated 23.08.2019, passed by the Special Court below Exh.53, by which the application filed by the State for recording fresh evidence has been rejected. The learned A.P.P. has argued that the Special Court erred in rejecting the application permitting fresh evidence and therefore, it has

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caused prejudice.

3. The other side has resisted this application by stating that there was no necessity to record fresh evidence, since the impugned order speaks that the evidence recorded by the Chief Judicial Magistrate can be considered.

4. Admittedly two separate cases are filed regarding one and the same incident. One is under Wild Life Protection Act in the Court of Magistrate, whilst the other is under Section 138 of the Indian Electricity Act before the Special Court. When it was brought to the notice of the Special Court that both the cases are arising out of same incident, the Special Court has clubbed both the matters by calling record from the Court of Chief Judicial Magistrate.

5. The State has applied for recording fresh evidence due to clubbing of both the matters. Already evidence of 5 witnesses was led before the Chief Judicial Magistrate. Since a person cannot be tried and convicted twice for same offence, cases have been clubbed. The Special Court has expressed that the Competent Court of Chief Judicial Magistrate has recorded the evidence and therefore, the same evidence can be read.

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6. In the circumstances, no case is made out for interference. Criminal Application is therefore, rejected.

JUDGE