

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

54 CRIMINAL WRIT PETITION NO.370 OF 2023

**DISHANT RAJA SALVE
VERSUS
THE POLICE INSPECTOR, POLICE STATION, OSMANPURA,
CHHATRAPATI SAMBHAJINAGAR**

Mr. Sanket S. Kulkarni, Advocate and Mr. A. R. Salve, Advocate
for the petitioner

Mr. S. R. Yadav-Lonikar, Advocate for the petitioner

CORAM : KISHORE C. SANT, J.

DATE : 29th MARCH, 2023

P. C.

1. Heard the learned advocate for the parties.
2. Grievance of the petitioner-original complainant in RCC No. 369/2019 is against the order dated 24-02-2023 passed by the learned JMFC, Aurangabad. The petitioner had filed an application in the trial court praying for directions to the respondent authorities to submit all digital articles seized from various CCTV cameras. By way of affidavit he has mentioned before this court in the contempt petition No. 325/2022 dated

20-01-2023 that the prosecution also shown readiness to deposit all the materials. However, learned JMFC on his own has observed in para No. 5 as below.

“The matter is exclusively tried by the Hon’ble Sessions Court. The matter is to be committed to the Hon’ble Sessions Court. The muddemal is sensitive and digital document and therefore if it produced before the committal court/ concern court it will survive the purpose. If the muddemal is produced before this court it may being different number and considering the digital document it is to be kept in valuable properly. After committal of case to Sessions Court it required to again transfer to the Sessions Court and therefore in order to avoid the technical difficulty and mi9shandling of sensitive document i.e. digital document if it produce directly to Sessions Court it survive the purpose.”

3. The learned court observing this has directed said material to be produced before the Sessions Court. The learned advocate for the petitioner relies upon section 209 of the Code of Criminal Procedure which reads as under:

209- Commitment of case to court of Session when office is triable exclusively by it- When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the court of Sessions, he shall-

a]*****

b]*****

c] Send to that court the record of the case and the documents and articles, if any, which are to be produced in evidence;

4. He submits that there is no exception provided in Section 209. Things should be done in any manner in which it is provided to be done under the law. Thus, he submits that order under challenge thus deserves to be quashed and set aside.

5. Learned APP fairly submits that as a matter of fact the police were ready to submit the material in the trial court and the court has recorded same in its order. It is not the prayer of the prosecution or the police authorities that it is not possible for them to deposit the material before the court.

6. Considering the above and in view of section 209 this court finds that impugned order deserves to be quashed and set aside. Therefore, the impugned order is hereby quashed and set aside by directing the court to follow a proper course of action as per the Code. This exercise is to be done within two weeks from today.

(4)

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7. With this, writ petition stand disposed off.

[KISHORE C. SANT, J.]

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