

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.75 OF 2023

Shrikant Dilip Aadlinge .. Applicant
Versus
The State of Maharashtra & Anr .. Respondents
...

Ms.Divyashree Shanbag i/b Jaydeep D Mane for the applicant.
Ms.P.N. Dabholkar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 3rd APRIL 2023

P.C:-

1 Heard Ms.Divyashree Shanbag i/b Jaydeep mane for the applicant.

2 The present Revision Application is filed being aggrieved by the order dated 20/10/2022 passed by the Addl. Sessions Judge, Solapur in Sessions Case No.355/2018, upon the application filed to recall the victim for cross-examination.

The application was filed for recalling PW 1 i.e. victim for cross-examination, at the stage where the 311 statement of the accused was being examined. The ground stated in the application is that Junior Advocate had cross-examined the victim and therefore, it can be that the said examination is not properly

carried out and it is therefore, necessary to cross-examine the victim fully and she should be called in the witness box.

3 The application was strongly opposed by the learned APP, and it was submitted before the Court that the counsel who cross-examined the victim and filed his vakalatnama in the matter and merely because he is a junior Advocate and cross-examination was not upto the satisfaction of the counsel for the accused, it cannot be a ground for recalling the witness.

4 The learned Judge has rightly considered the application and considering the said aspect of the matter that the victim is a girl and the accused is facing accusations u/s.8 and 12 of the POCSO Act, and recalling the victim once again into the box would defeat the purpose of the POCSO Act, as she would be expected to re-iterate her ordeal, which, in terms of the special enactment, is to be deprecated. The victim girl had once stepped into the witness box, was examined and was also subjected to cross-examination, but merely because the counsel feel that he could not extract the necessary material from her because some junior counsel had cross-examined her, would not satisfy the requirement of recalling the witness, and particularly in a case where the victim is a minor girl.

Upholding the impugned judgment, the application is rejected.

(SMT. BHARATI DANGRE, J.)