



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3626 OF 2023
IN
CRIMINAL APPEAL NO. 76 OF 2002

Shamsing s/o Ramsing Kayast
Age 65 years, Occupation Labour,
R/o Gandhinagar, Udgir,
Taluka Udgir, District Latur.

... Applicant
[Orig. Accused]

Versus

The State of Maharashtra

... Respondent

.....
Mr. Bhagwan S. Kudale, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent-State
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 22.04.2024
Pronounced on : 26.04.2024

ORDER :

1. Instant application is pressed into service praying to allow applicant-appellant to place on record documents annexed with the application.
2. Learned counsel for the applicant would point out that appellant has taken exception to the judgment and order of Special Judge, Osmanabad dated 22.01.2002, convicting the applicant for offence under the provisions of the Prevention of Corruption Act,

1988 [PC Act]. It is pointed out that appeal is pending before this Court, however, during trial, applicant could not place his appointment orders before learned trial court. Such appointment orders from 1979 to 1988 were left out to be relied in support of his case. That, such documents have bearing on the merits of the appeal. Such documents are crucial for his own case in appeal. Therefore, by invoking Section 386-A and 482 of the Criminal Procedure Code (Cr.P.C.), it is prayed that application for production of documents be allowed.

3. While opposing the above application, learned APP pointed out that applicant was tried for commission of offence under the provisions of the PC Act. Trial was conducted on 08.08.2001 and concluded before learned Special Judge on 22.10.2001. That learned Special Judge held applicant guilty by order dated 22.01.2002. Appeal has been preferred against the same and the appeal is of 2002. He pointed out that attempt is made almost more than two decades after filing of the appeal, to bring the documents on record, that too, without offering any explanation as to what prevented applicant from putting said documents to use at the initial stage. That, even no prompt steps were taken before this Court after filing appeal in 2002. He further pointed out that even so called documents, which are

sought to be taken on record, are photocopies. For the said reasons, he prays to reject the application.

4. Heard both sides. Perused the papers.

5. It seems that present applicant faced trial for commission of offence punishable under Sections 7, 12, 13(1)(d) r/w 13(2) of the PC Act vide Special Case No. 6 of 1999. Charge was framed and explained to the applicant-accused on 01.11.2000. Trial seems to have commenced on 08.08.2001 and evidence recording seems to have concluded on 22.10.2001. Thereafter, record shows that applicant's statement under Section 313 of Cr.P.C. was recorded on 22.01.2002. After appreciation of evidence, trial court has decided the case by judgment dated 22.01.2002. Appeal memo shows that appeal has been preferred against such judgment and order of conviction on 11.02.2002. Instant application for production of documents is of 21.09.2023.

6. Therefore, apparently, documents are now sought to be taken on record after almost more than two decades. The said documents sought to be placed on record are pertaining to appointment orders. These are the basic documents which a person in service holds since

entry point in service. Apparently, very appointment orders were not relied or placed on record during entire trial which lasted for more than a year. No plausible reason has also been put forth before this Court as to why such documents were not placed before the trial court during trial. Even after filing of appeal before this Court two decades back, what prevented present applicant from bringing on record very appointment orders till 2023 is not satisfactorily explained. Taking the statement across the bar made by learned APP that, documents sought to be taken on record being mere photocopies, relief so prayed vide Criminal Application No. 3626 of 2023 cannot be granted. Hence, I proceed to pass the following order:

ORDER

The application stands dismissed.

[ABHAY S. WAGHWASE, J.]