

Ajay

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

CRIMINAL REVISION APPLICATION NO. 380 OF 2024

Shivaji Raghunath Mohite

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Ms. Apeksha Vora, Advocate for Applicant.
 - Ms. Dhanalakshmi Krishnaiyer, APP for Respondent – State.
 - Mr. Chetan Marathe, API, Kalachowki Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 09, 2024.

P.C.:

1. Heard Ms. Vora, learned Advocate for Applicant and Ms. Krishnaiyer, learned APP for Respondent – State.

2. Present Criminal Revision Application (for short “**CRA**”) is placed before me by the Registry in view of the letter dated 14.11.2024 addressed by the learned Principal Judge/Sessions Judge, City City and Sessions Court, Greater Mumbai addressed to the Registrar (Judicial) of this Court.

3. The order in question is dated 10.09.2024 passed in Criminal Revision Application No.380 of 2024. By virtue of that order, the impugned order dated 29.05.2024 was set aside in respect of PW-1 and PW-10 and Applicant was permitted to re-cross-examine PW-1 on

the point of C.D. containing CCTV footage from Yatrik Bar and also PW-10 for the limited aspect as stated in the order. When this order was placed before the learned Trial Court, re-cross-examination of PW-1 was taken up and concluded. Thereafter PW-10 was recalled and during his cross-examination, he was confronted with certain statements as also questions pertaining to certain statements of witnesses which were recorded. It appears that some disagreement arose between the learned Advocate for the accused and learned Court with respect to whether this Court had allowed PW-10 could be confronted with respect to the statements of witnesses as put to him. PW-10 is the IO.

4. In that view of the matter, letter dated 14.11.2024 is addressed to the Registry for seeking a clarification. Clarification is sought to the extent of seeking the scope of the recall. Undoubtedly, learned Court has informed this Court by the above letter that the trial is virtually at its concluding stage. What is seen is that the accused is in jail since 2019 and therefore anxiety of the accused who is arraigned as Accused No.1 in Sessions Case No.1099 of 2019 can be understood by this Court.

5. Be that as it may, the trial needs to be completed at the earliest. The order dated 10.09.2024 is explicit. It need not be more clear as to whether where has been any restriction placed on cross-

examination of PW-10 – IO who has collected the entire evidence after the incident and if permission has been granted by this Court to recross-examine the IO in that aspect, there cannot be any restriction put on it. Had it been so, then the order dated 10.09.2024 would have specifically mentioned so and not allowed the re-cross on those issues.

6. In that view of the matter, I do not see any reason for the learned Court to seek any clarification of the order dated 10.09.2024, especially in view of paragraph No.6(1) of the said order. What is required to be understood is the order passed by this Court and nothing more. The order is clear and is required to be understood in its entirety. What is important is that the Court has formed an opinion which is clearly seen from the findings returned in paragraph No.7 of the said order. Once that is done, the order needs to be followed in its true letter and spirit.

7. In that view of the matter, the assistance of the Court sought by the learned Trial Court stands duly clarified. I need to reiterate that this is not a clarification in the nature of a recall or a review because if that be so, then it would have to go before the same Judge. The previous order of recall and recross being explicitly clear for the reasons given therein be followed by the learned Trial Court.

8. The letter addressed by the learned Judge which is referred to herein above, states what had transpired in the Court between the

learned Advocate for the accused and the learned Judge. Proceedings in Court have to be conducted with discipline and decorum is all what I can say in this matter. In that view of the matter, the learned Judge has sought the above clarification. However, since the order dated 10.09.2024 is clear as observed, learned Judge is requested by this Court to complete the trial as expeditiously as possible in accordance with law. Needless to state that Advocate for accused shall also act with restraint while addressing the learned Trial Court and ensure that the recross-examination is completed duly in accordance with law at the earliest.

9. The issue raised in the letter dated 14.11.2024 stands clarified.

[MILIND N. JADHAV, J.]

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