



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

CRIMINAL APPLICATION (APL) NO.415 OF 2024

[The State of Maharashtra ..Vs.. Ravindra Wasudev Wankhade]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr A. Gohokar, APP for Applicant/State.

CORAM : M. W. CHANDWANI, J.

DATE : 25th APRIL, 2024.

. Heard.

2. By the present application, the prosecution is seeking to quash and set aside the order dated 29.09.2023 passed below Exhibit -51, by the learned Additional Sessions Judge, Amravati, in Sessions Trial No.15 of 2017, thereby rejecting the application of the prosecution for re-examination and to put question to the witness in the nature of cross-examination in re-examination.

3. Though the non-applicant was served, none appeared on behalf of him.

4. It is not necessary to go into the matrix of the present case in detail, it will suffice to say that the PW-3 has been examined by the prosecution. According to the prosecution, the said witness resiled from his earlier statement and also reiterated the same fact in cross-examination. The permission for re-examination of the witness was granted to the prosecution, however, the learned Additional Sessions Judge, Amravati, denied the permission to put question to the witness in the form of cross-examination.

5. Perusal of the impugned order shows that the application of the prosecution has been rejected mainly on the ground that the statement of the said witness has not been recorded by the Police. The learned Trial Court has recorded that this fact as admitted fact, which is factually incorrect. The charge-sheet shows that it contains the statement of this very witness. Therefore, the prosecution has to put suggestion to this witness in the form of cross-examination to prove the improvement/omission, if any, from the mouth of the Investigating Officer when he will be in the witness box. Therefore, permission to put questions to PW-3 in the form of cross-examination ought to have been granted by the Trial Court.

6. For the above said reasons, the impugned order needs to be set aside. Resultantly, the criminal application is **allowed**.

7. The order dated 29.09.2023 passed below Exhibit -51, by the learned Additional Sessions Judge, Amravati, in Sessions Trial No.15 of 2017, is hereby set aside.

8. The application under Exhibit-51 is allowed and the prosecution is permitted to put question to the Witness No.3 in the form of cross-examination in re-examination.

9. The criminal application is disposed of accordingly.

(JUDGE)