



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

CRIMINAL WRIT PETITION NO.168 OF 2024

[Abdul Mateen s/o Abdul Wahab .vs. The State of Maharashtra and one]

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

Court's or Judge's orders

Mr. S.D. Chande, Advocate for the petitioner,
Mr. S.A. Ashirgade, Additional Government Pleader for respondent no.1 -State.

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CORAM : M.W. CHANDWANI, J.
DATE : 16/02/2024.

By the present writ petition the petitioner is seeking to quash the order below Exh.107 dated 2.11.2023 passed by the learned Additional Sessions Judge, Mangrulpir, District-Washim, whereby his application under Section 91 of the Code of Criminal Procedure for calling injury certificate has been rejected.

2. The petitioner is facing trial for offence punishable under Sections 376 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. The contention is that the petitioner was subjected to torture by the police and, therefore, he raised the grievance before the learned Magistrate, when he was produced for remand. The learned Magistrate directed the police to examine the petitioner through doctor. Accordingly, he was examined and medical report was filed. Now at the trial, the petitioner is seeking direction from the learned Sessions Court to call the said injury certificates in the trial.

3. The learned Trial Court held that the injury certificate of the petitioner will not assist the court in any manner to decide the charges levelled against him. The grievance of torture/assault by the police in custody is something different than the charges levelled against the petitioner. At the trial, the question is, whether the petitioner has committed penetrative sexual assault on the victim girl and has nothing to do with injury, which the petitioner claimed, as a result of torture by the police while in police custody in this case. Therefore, the learned Special Court has rightly held that the injury certificate will not assist the court in determining the charges framed against the accused. Even otherwise, if there is any nexus of the injury on the person of the petitioner with alleged crime, the petitioner can himself file the certified copy of injury certificate. No case is made out to issue notice before admission.

4. The learned counsel for the petitioner submits that the documents of grievance of the petitioner about assault made by the police may be lying in the court where he was produced during remand and, therefore, liberty may be granted to get the copies of those documents. Needless to mention that liberty is always with the petitioner.

5. The petition is sans merit, hence the same is dismissed.

(M.W. Chandwani, J.)