



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

CRIMINAL WRIT PETITION NO. 323 OF 2024
XYZ in Crime No. 2756/2021 through PSO, PS Amravati
Vs.
State of Maharashtra and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Shweta Chavan, Advocate (appointed) for petitioner.
Ms. S. N. Thakur, APP for respondent no. 1/State.
Shri M. N. Ali, Advocate for respondent nos. 2 and 3.

CORAM :- M. W. CHANDWANI, J.

DATED :- 24.04.2025

Heard.

2. The petition challenges the order dated 21.11.2023 passed by the learned District Judge-2, Amravati (for short, "ASJ") whereby, the application Exh.43 filed by the accused in Sessions Case No. 245/2021 before the learned ASJ for supplying the copy of the Pen-drive, which has been relied on by the prosecution has been allowed. It will not necessary to go into the matrix of the case. It is suffice to say that, respondent no. 2 and 3 are facing charges under Sections 376 (2)(n), 313, 294, 506, 507 and 323 r/w. 34 of the Indian Penal Code (IPC) along with Sections 3(i)(w)(i) (ii) and 3(2)(v) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocity) Act, 1989 before the learned ASJ.

3. Additional charge-sheet along with a Pendrive also came to be filed by the Investigating Agency in the said case. Respondent no. 2 and 3/accused applied for directions to the prosecution to supply the copy of the Pendrive, which came to be allowed. Feeling aggrieved with the said order, the petitioner/victim has approached this Court by way of the present petition.

4. Mrs. Shweta Chavan, learned counsel appearing on behalf of the petitioner vehemently submitted that the Pendrive contains photographs and videos of the victim including objectionable photographs and videos and if a copy of the said Pendrive is given to the accused, they may misuse the same and there will be a huge loss to the reputation of the victim. Therefore, the learned ASJ ought not to have allowed the application of the accused by directing the prosecution to supply a copy of the Pendrive containing the photographs and videos of the victim.

5. On the other hand, Mr. M. N. Ali, learned counsel appearing for respondent nos. 2 and 3/accused vehemently submitted that it is the right of the accused under Section 207 of the Code of Criminal Procedure (CrPC) to have a copy of every material on which the prosecution relies. According to him, if the photographs/videos and the Pendrive are relied upon by the prosecution, then a copy of the said photographs/videos and the Pendrive are required to be given to the

accused for effective cross-examination and to defend themselves. Therefore, the order of the learned ASJ is in consonance with Section 207 of the CrPC and does not require any interference.

6. The learned APP appearing on behalf of the State submitted that the second proviso to Section 207 of the CrPC empowers a Magistrate to withhold any documents. According to her, a balance is to be struck and therefore, the accused may be permitted to inspect the contents of the Pendrive which is relied upon by the prosecution. To buttress her submission, she seeks to rely upon the judgment in the case of ***P. Gopalkrishnan @ Dileep Vs. State of Kerala [(2020) 9 SCC 161]***.

7. As per Section 207 of the CrPC, an accused is entitled to get the copy of the police report, the statements of the witnesses and any other documents which are submitted with the police report. It is also not in dispute that the second proviso to Section 207 of the CrPC regarding non-supply of the copies of the documents is applicable only to the documents which are voluminous. I am also conscious to the decision of the Supreme Court in the case of ***Superintendent and Remembrancer of Legal Affairs Vs. Satyen Bhowmick [(1981) 2 SCC 109]*** wherein, it has been held that the accused is entitled to a copy of the statements and documents accompanying the police report which the prosecution may use against the accused during the trial.

At the same time, objective of the amendment in Section 327 of the CrPC and Section 228-A of the IPC is for securing the privacy and identity of the victim. On one hand, there is a right of an accused to have documents relied upon by the prosecution and on the other hand the right of privacy of a victim is also required to be maintained. Therefore, it is necessary to evolve a mechanism that enables the accused to re-assure himself about the authenticity of the contents of the Pendrive so as to effectively defend himself during the trial.

8. Thus, balancing between the right of the accused on one hand and securing the privacy of the victim and her identity on the other hand, the Court can always issue suitable directions. Therefore, the accused can be permitted to inspect the contents of the Pendrive before any responsible officials of the Court and if necessary along with his Advocate and an IT expert with care and measures and they can be supplied a copy of the Pendrive withholding the photographs/videos of the victim. I am of the opinion that this will serve the purpose of justice. Therefore, the order passed by the learned Special Judge is required to be modified as under:-

i) The order dated 21.11.2023 directing the prosecution to supply a copy of the contents of the Pendrive is set aside.

ii) The respondents/accused shall be entitled to inspect the contents of the Pendrive before the Superintendent or any other responsible officer of the Court along with their Advocate and an IT expert in the above said terms excluding the photographs/videos of the victim. The copy of rest of the material can be supplied to the respondents/accused.

iii) The Special Court may pass appropriate orders with regard to the inspection of the photographs/videos of the petitioner contained in the Pendrive.

iv) The petition is disposed of in the above terms.

The fees of the learned counsel for the petitioner appointed to represent the petitioner shall be quantified as per rules.

(M. W. CHANDWANI, J.)