



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

CRIMINAL APPLICATION (APL) NO. 222 OF 2024

SHRI SATISH KESHAV BAJAIT
Vrs.
THE STATE OF MAHARASHTRA

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

Court's or Judge's Order

Shri M. N. Ali, Advocate for applicant.
Shri N. R. Patil, A. P. P. for Non-applicant-sole.

CORAM: RAJNISH R. VYAS, J.
DATE : 25/09/2025.

1. The original accused in Special Child Case No.54/2020 has approached this Court praying for setting aside the order dated 17/06/2023 passed by the Extra Joint District and Sessions Judge, Wardha by which the documents produced by PW-7 - Mr. Chandu Ingole, which were not part of the charge sheet were exhibited during the course of examination-in-chief.

2. It is the case of applicant / original accused that offences under Sections 354-A and 506 of the Indian Penal Code R/w Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 was registered against him and after completion of investigation, charge sheet was filed and trial commenced. Several witnesses were examined including PW-7 - Mr. Chandu Ingole. During the course of examination-in-chief, he produced photocopy and original copy of Admission Form and

Admission Register before the Court which was objected by the accused. Overruling the objection, those documents were exhibited.

3. I have heard Shri Ali, learned counsel for the applicant and Shri Patil, learned APP for the State.

4. Shri Ali, learned counsel contends that procedure followed by the Trial Court is unknown to the law.

5. Per contra, learned APP states that the documents were produced in order to prove the age of the victim.

6. It was also contended that supporting documents to prove the age of the victim were already produced and exhibited also.

7. Be that as it may, it is admitted position that the documents which were sought to be produced were not part of charge sheet.

8. The Code of Criminal Procedure specifically provides that the material which is required to be produced through Section 173(8) of Code of Criminal Procedure.

9. Since the aforesaid procedure was not followed, it can be said that the act of exhibiting those two documents was illegal. The dictum of law has been laid

down in the case of Wazid Ansari Vrs The Police Inspector and others, reported in 2024 ALL MR (Cri) 3512, Para No.17 of which supports the aforesaid aspect. Para No.17 is reproduced hereinbelow :-

“17. Admittedly the application filed and signed by the Prosecutor no where refers to any provision of Cr.P.C. under which the Prosecutor is entitled to file such documents. In fact learned Prosecutor has stepped into the shoes of the Investigating Agency by asking the Court to allow him to produce the photographs which were not available either with police or with the complainant till filing of the chargesheet.”

10. Considering the fact that documents produced by the witnesses were directly tendered in examination and exhibited, there is no option but to interfere with the order.

11. The documents at Exh.93 and 94 should not have been permitted to produce through the witness for the first time without adverting to Section 173(8) of Code of Criminal Procedure.

12. The learned APP requests this Court to keep open question of producing the said documents by taking recourse to Section 173(8) of the Code of Criminal Procedure.

13. Needless to mention that power to carry out further investigation is always available to the Investigating Officer.

14. Accordingly, the application is allowed.

15. Consequently, order dated 17/06/2023 is set aside so also the order of exhibiting the documents at Exh.93 and 94 only.

[RAJNISH R. VYAS, J.]

Choulwar