

Order below Exh.38 in S.C.No. 359/14.

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IN THE COURT OF SESSIONS FOR GREATER BOMBAY.

Order below Exh.38.

In

Sessions Case No.359 of 2014.

The State of Maharashtra}
(At the instance of }
Wadala T.T.Police }
Station,Mumbai }
in C.R.No.46/2014. }..Complainant.
 V/s.
Anil Shantaram Sagwekar }...Applicant/accused.

APP Mrs. Sawant for State.

Adv.Mr. Eknath Sawant for applicant/accused.

CORAM : H.H.THE ADDL.SESIONS JUDGE
 SHRI. S.C.KHATI
 (Court Room No.22)

DATE : 01ST OCTOBER, 2015.

ORDER:

1. The State has filed this application for issuing witness summons to Dr. Trupti Pawar who had made endorsement on the statement recorded of the deceased.

2. The ld. Counsel for the State contends that the statement of the deceased was recorded by the Police Officer and Dr. Truti Pawar had made endorsement on it about the deceased been conscious and oriented.

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3. The ld. Counsel further contends that in view of above, the witness needs to be summoned as the State is interested to examine her.

4. **Percontra** :- The Ld. Counsel for the accused filed its say and opposed the application contending that the application is filed belatedly when the prosecution has already examined seven witnesses.

5. The ld. Counsel for the accused vehemently contends that the name of the present witness was never mentioned while submitting the charge-sheet, nor in the list of witnesses submitted before the Court.

6. The ld. Counsel contends that the accused is taken by surprise and grave prejudice will be caused to him if the witness is summoned for evidence. Hence, opposed the application.

7. I have heard ld. Counsel for the parties at length. The ld. Counsel for the State is examining P.W.No.8 who had recorded the dying declaration of the deceased. The application by the State to call the witness who had given

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endorsement on the dying declaration would not cause any prejudice to the accused as the evidence of prosecution side is still not completed. Further the accused would have the opportunity to cross examine the said witness.

8. Further the said witness is to be examined only for the limited purpose for proving the condition of the deceased at the time of recording his statement. The evidence of the said witness would not adversely affect the defence of the accused. Hence, opportunity needs to be granted to the State. Application allowed. Issue witness summons to the Dr. Trupti Pawar.

(S.C.KHATI)
Addl. Sessions Judge,
City Civil & Sessions Court,
Gr. Bombay.

Order Dictated on : 01/10/2015.
Transcribed on : 01/10/2015.
Signed on : 01/10/2015.

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" I affirm that the contents of this PDF file order are the same, word to word, as per the original order."

- Name of Steno with post -:Mr.S.D.Nalawade
(H.G.Steno)
- Name of the Judge (with Court No.)-:HHJ Shri
S.C.KHATI, Court No.22
- Date of pronouncement of order -:01/10/2015
- Judgment signed by the P.O. on -:01/10/2015
- Judgment uploaded on -:16/10/2015