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Sessions Case No.83/2025
Common order below Exh.126 and 133

MHAU160003382025



Sessions Case No.83/2025

State of Maharashtra

Vs.

Sachin Bhagchand Waghcuare and Others

COMMON ORDER BELOW EXH.126 AND 133

I have perused the applications and say filed by the accused persons. I have heard both the sides.

[2] By these two applications the Investigation Officer has been seeking permission to produce on record CDR/SDR of four accused persons. It is submitted on behalf of the prosecution that CDR/SDR of the said four accused persons have already been produced on record. However, certificate under Sec.65-B of the Evidence Act in respect of those CDR/SDR have been received recently. Therefore, the Investigating officer is seeking permission to produce on record said CDR/SDR alongwith certificate under Sec.65-B of the Evidence Act.

[3] The accused have filed their common reply to both the applications vide Exh.130, wherein, it is submitted that

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copies of the said CDR/SDR were required to be furnished to the accused persons along with the charge-sheet. The prosecution has not put-forth any cogent reason for non production of the said documents. Therefore, at this belated stage the said CDR/SDR and certificate under Sec.65-B of the Evidence Act cannot be permitted to produce on the record.

[4] So far as, production of CDR/SDR is concerned, it appears that those documents have already been produced on record by the prosecution along with the charge-sheet. Therefore, those documents are not surprised documents from the defence. Moreover, it is well settled that, mere production of document is not sufficient to prove its contents. To prove contents of any such document the concern party has to lead requisite evidence of the concern witness. Therefore, even if, production of CDR /SDR as prayed for is granted, no prejudice would be caused to the defence, because it would get opportunity to challenge its veracity and genuineness by way of cross-examination.

[5] The prosecution has relied upon the following case laws:-

(1) Avdut Waman Kushe Vs. State of Maharashtra Criminal Writ Petition No.54 of 2016, decided by the Hon'ble High Court of Bombay dated 03.03.2016

(2) State of Karnataka Vs. M.R. Hiremath 2019 AIR (SCW) 2337,

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In the above case laws it is observed that subsequent filing of the certificate under Sec.65-B cannot reduced effectiveness of such CDR/SDR, as the safeguard against the tampering. As per the Evidence Act it is the requirement of production of a certificate under Sec.65-B and not on the stage at which the same must be produced. Thus, production of certificate under Sec.65-B at subsequent stage would be permissible.

[6] For the reasons stated above, I hold that it would be just and proper to permit production of documents/certificates as prayed for by the prosecution. I, therefore, pass the following order:-

ORDER

Applications (Exh.126) and (133) are hereby allowed.

Date:- 09.03.2026

(S.B. Bahalkar)
Additional Sessions Judge,
Gangapur