



Order Below Exh.56
(Dated 21/12/2022)

1. The accused has filed application for directing the prosecution to produce bed head tickets of deceased Shivdas Samadhan Pachpor and accused Arvind Pachpor and further the statements of witnesses recorded by the I.O. during 15/12/2013 to 06/3/2013.
2. It is submitted that the accused is charge-sheeted for the offence punishable under section 302 of IPC. The offence punishable under section 307 of IPC was earlier registered vide crime No. 13/2013 on the basis of the statement made by deceased Shivdas. As he died subsequently, the offence was converted to section 302 of IPC. On 10/2/2013 the deceased and accused both have sustained burn injuries and referred to government hospital, Akola for the purpose of treatment. Their bed head tickets were prepared after admission to the hospital. Both of them subsequently have shifted to Shriram Hospital, Akola for further treatment were subsequently Shivdas died. From both these hospitals the bed head tickets (MLC Papers) were prepared which were containing the history and details of entire treatment. These documents are not filed on record by prosecution. Those are material documents hence, request is made to call the same.
3. Further it is submitted that after getting the information about incidence of burning on 10/02/2013 the police officer had visited the place of incidence and had drawn the spot panchanama on 15/2/2013. Offence is registered against accused on 06/3/2013. During this period the statement of witnesses were recorded by I.O.

but those are suppressed while filing of charge-sheet. Those are relevant in the present proceeding for using as defence to contradict the witnesses therefore, by filing the application the prayer is made to direct prosecution to produce them on record.

4. As per Exh.57 prosecution filed say by stating that the application does not disclose any section under which it is filed. It is required to be established by the prosecution that the claimed documents about treatment given to victim and accused are in possession of prosecution and also those were collected, made available to police. The bed head tickets are the public document so accused can apply for them and produced them in his defence. About the recorded statement under section 161 of Cr.P.C. as claimed in the application, no details are provided in the application and the statement of witnesses recorded by I.O. are excluded from the definition of the document hence, both demand made in the application are not tenable so prayer is made to reject the same.

5. Heard arguments, perused record. It is seen that the application Exh. 56 the say of PSO, Hiwarkhed Police station was called but not filed. After considering the submissions from both sides it is clear that the accused and victim were provided with treatment firstly in the government hospital and then at Shriram Hospital, Akola. The bed head tickets are the MLC papers and the accused is at liberty to seek for the same by applying to the Appropriate Authority of both these hospitals and can be made available only by those hospitals. For whatever the statements recorded by I.O. during investigation, is the part of investigation. While filing the charge-sheet the I.O. after completion of investigation it is for the I.O. to forward to the court along with the report under section 173 of Cr.P.C., the statements recorded under section 161 of all the persons whom the prosecution

proposes to examine as its witness. Here on perusal of charge-sheet it is seen that the statement of witnesses are already filed on record on whom the prosecution relies. Whether the statements as alleged in the application were recorded during the period from 06/3/2013 to 15/3/2013, of whom it were recorded, names of the witnesses, date of their recording specifically etc. is not made clear in the application itself. The vague submissions made in the application cannot be taken into consideration.

6. Further it seems that the alleged incident is too old of the year 2013. The claimed documents in the application whether are available, prepared, preserved, maintained in the concerned hospital or police station is also not made clear in the application itself. Moreover, the applicant / accused is at liberty to get the same from them by following due process as prescribed and get them file in defence. Under such circumstances, the application is rejected.

Dt.21/12/2022.

(Smt. P. S. Kale)
Additional Sessions Judge, Khamgaon

Certificate

I affirm that the contents of this PDF file order as correct word to word as per the original order.

Name of the Court: (Adhoc) Spl.Judge, Khamgaon.

Name of the Steno: C. N. Mahale

Date: 21/12/2022