

CNRNO. MHKO030041402020	RCC. No.1225/2020 State of Maharashtra V/s. Ashok Kallappa Chougale & others.
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**ORDER BELOW EXH.18**  
**(PASSED ON 27.09.2022)**

01. This is an application filed by accused under Section 91 of Criminal Procedure Code for production of C.C.TV footage of alleged incident happened on 14/11/2019.

02. Heard the learned advocate of accused. He submitted that, the informant is landlord and accused No.1 is protected tenant. Civil litigation is pending between informant and accused No.1 for a tenanted premises since 2015. To acquire said tenanted premises informant used to threatened the accused No.1 for implication in false criminal case. In 2015 also, informant threatened the accused No.1 stating that she will implicate him and his family in criminal case. Hence, accused No.1 sent complaint to S.P. office in 2015 itself, which has produced on record by accused. Learned advocate further submitted that the informant is advocate practicing in Kolhapur District Court and therefore she falsely implicated accused in present criminal case. At time of investigation, accused has requested investigation officer to collect the CCTV footage of accused's shop where alleged incident has occurred. However, said CCTV footage is not collected by investigation officer as same is against the informant. Therefore, accused No.1 himself, sent said CCTV footage along with the complaint to SP Office, Kolhapur. Learned advocate further pleaded that aforesaid CCTV footage is necessary for proving the innocence of accused and also to assist this Court to decide the charges levelled against accused. Aforesaid CCTV footage is necessary to be brought on record because by taking aid of aforesaid CCTV footage, accused will be in better position to rebut the charges levelled against them. Said CCTV footage is necessary to substantiate accused's non-involvement and false

implication in present case and hence he has a right to claim C.C.T.V footage as same should be brought before the court in the interest of justice. Hence, he prayed for issuance of direction to Investigation Officer to produced aforesaid CCTV footage on record.

03. Heard learned APP for State. He submitted that case is pending for framing of charge. The application is premature as charge is not framed against accused yet. By said application, accused are trying to bring defence evidence on record which is not permissible before framing of charge. Alleged CCTV footage is in possession of accused therefore, they can bring it on record at any time. Hence, prayed for rejection of present application of accused as it is not maintainable.

04. From record it appears that the offence punishable under section 354 of IPC registered against accused and case is pending for framing of charge. Alleged incident occurred on 14.11.2019 at shop of accused and FIR was registered on 17.11.2019. Now question for consideration under this application is that whether the accused has a right to seek production of such document, which is not in custody of investigation officer and that to at stage where charge is not even framed?

05. In present case, application is moved at stage of before framing of charge, which according to accused, if produced would help them in rebutting charges levelled against them. It is settled law that at the stage of framing the charge, the Court is required to consider whether there are sufficient grounds to proceed against accused and at that time, the Court is required to consider only police report referred to under Section 173 of the Code of Criminal Procedure and documents sent with.

06. It is also settled law which Hon'ble Supreme Court held in *State of Orissa Vs. Debendra Nath Padhi (2005) 1 SCC 568* that “any document or other thing envisaged under Section 91, can be ordered to be produced on findings that the same is necessary or desirable for the purpose of investigation, enquiry, trial or other proceedings under the Code and fore-most requirement of the section is about document being necessary or desirable and the necessity or desirable would have to be seen with reference to the stage when a prayer is made for production” and further held that, “if any document is necessary or desirable for defence of accused, the question of invoking Section 91 at the initial stage of framing of the charge would not arise since defence of the accused is not relevant at stage of framing of charge. Thus, held that “so far as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence.”

07. In present case, accused are seeking production of alleged CCTV footage which is essential for their defence before framing of charge. Moreover, accused are asking production of alleged CCTV footage which is in possession of accused and accused themselves sent to S.P. office. Therefore, application filed by accused is not tenable before framing of charge. Hence, under facts and circumstances of present case and in view of settled law as stated herein above, I pass following order.

**ORDER**

Application is rejected.
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**Date: 27.09.2022**

**Sd/-**  
(Smt.L.A.Kale)  
14<sup>th</sup> Judicial Magistrate F.C.,  
Kolhapur.