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**ORDER BELOW EXH.34 In Regular****Criminal Case No. 36/2020**

Police Station Shirol

Police Inspector, Shirol Police Station Vs.**Ajit Baburao Patil**

The present application is filed by the prosecution for production of documents which were given by the witness Mohan Patil i.e. PW.1. Accordingly, he filed a pursis at Exh. 32.

2. The accused resisted the present application by filing a reply on the overleaf of the said application. It is submitted that the present case is at the conclusion stage and, therefore, permission cannot be granted to the prosecution to produce the said documents.

3. The Ld. Advocate for accused relied upon the following authorities -

a) ***Bhagyashree Prashant Wasankar V/s. The State of Maharashtra, Criminal Writ Petition No. 688/2020, decided on 15/07/2021***

4. Heard ld. APP for state and Ld. Advocate for the accused.

5. On perusal of the charge-sheet, it appears that my Ld. Predecessor framed charges against the accused for the offences punishable under Sections 325, 323, 504, and 506 of the IPC. In the present case, the prosecution has examined two witnesses. On the previous date, the testimony of P.W.3

(Doctor) was in progress, but due to the present application for production of documents, the matter was adjourned.

6] The Ld. Advocate for accused argued that there is no specific provision to produce the document during the trial. The learned advocate for the accused relied upon judgment *Bhagyashree* (cited supra), wherein Hon'ble Bombay High Court held that in a sessions trial, no additional documents can be produced by witness directly as same would prejudice accused persons by depriving them of a fair opportunity to prepare their defence. It is further held that additional documents could be produced by following procedure of further investigation as contemplated under Section 173 (8) of Cr.P.C. The Hon'ble High Court advertent to the provision of sec. 242 of the Code held that the said provision pertain to the power of the magistrate to issue summons to any witness on the application of the prosecution, directing such witness to produce any document.

7] However, in the present case, I have perused the nature of the documents, which are X-rays of the informant. Upon perusal of the charge-sheet, it appears that they are already part of the charge-sheet, though only photocopies were produced. Therefore, in the present case, the prosecution is not producing any new or additional documents. Hence, the ratio laid down in *Bhagyashree* (cited supra) is not applicable to the facts of the present case.

8] The prosecution seeks to produce the original copies of the said X-rays, which are already part of the charge-sheet. Considering the nature of the offence, the original X-rays are necessary in the present case. It is also necessary to bring the best evidence before the Court. If proper evidence was not adduced or relevant material was not brought on record due to any inadvertence, the Court should be magnanimous in permitting such mistakes to be rectified.

9] Therefore, the said X-rays sought to be produced on record are relevant and necessary for the just decision of the case. Furthermore, if the production of documents is allowed, the accused would not be taken by surprise at this stage. I do not find any prejudice to the accused if the prosecution is permitted to produce the X-rays on record.

ORDER

1. Application Exh. 34 for production of documents is hereby allowed.

Jaysingpur.
Date :05/01/2026

(M.S.Patil)
Judicial Magistrate First Class,
Jaysingpur