

MHPA010003952017



SESSIONS CASE NO. 22/2017
State of Maharashtra Vs. Sanjay
ORDER BELOW EXHIBIT NO.119
(Date : 09/10/2025)

The prosecution filed this application for production of documents on record.

2. It is stated that in response to the letter to S.P. Parbhani by learned APP, Station Diary No.32 and 22 to Satara police station, District Aurangabad and Station Diary No.8 and 22 of Charthana police station are received by him. He stated that all the documents are relevant time connected with the matters, so they may be accepted on record.

3. The accused opposed the application by filing say at Exh.121. They stated that in this matter the prosecution adduced evidence of seven witnesses. The prosecution has acted as investigation officer and trying to collect documents during the trial. They stated that there is no provisions to authorize the prosecution to submit the documents of evidence after cognizance of the matter was taken by the Court, except under the provisions under section 173(8) of Cr.P.C. with the permission of the Court only. They pray to reject the application.

4. Heard learned APP and the learned Advocate for the accused.

5. The learned Advocate for the accused relied on *Bhagyashri Prashant Wasankar Vs. The State of Maharashtra, 2021 ALL MR (Cri.) 3030*. In this case the question arises for consideration of Hon'ble High Court is as to whether a witness appearing for the prosecution in a session trial can produce documents which were not part of the charge-sheet filed before the Court and whether such procedure of production of document directly by the prosecution witness is contemplated under the provisions of the Code of Criminal Procedure. In this case it is held that-

“It is the Public Prosecutor, who makes the strategic call as to which of the witnesses are to be examined and which of them are to be dropped. It is for the Public Prosecutor to take a call as to the documents on which reliance is to be placed during the course of the trial and it is for this reason that all such documents are placed on record along with the charge-sheet, with copies thereof being furnished to the accused persons. This is to afford the accused persons a fair opportunity to prepare their defence. In these circumstances, it becomes clear that the Cr.P.C. does not contemplate any procedure for a witness to directly produce documents during the course of trial. The procedure known to law whereby additional documents can be produced on record and then relied upon in a sessions trial is through the channel of further investigation, contemplated under Section 173(8) of Cr.P.C., as held by the Hon'ble

Supreme Court in the case of Central Bureau of Investigation Vs. R.S. Pai and Another [2002 ALL Mr (Cri) 1396 (S.C.)] (supra)".

6. The learned APP relied on ***CBI Vs. R.S. Pai and another, Appeal (Crl) 1045 of 2000***, dated 03/04/2002. In this case the Central Bureau of Investigation moved an application for production of documents, in which an application for discharging the accused was filed. In this case it is held that if further investigation is not precluded, then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to investigation. In such cases, there cannot be any prejudice to the accused.

7. The learned APP also relied on ***Niwas Keshav Raut Vs. The State of Maharashtra, Criminal Writ Petition No.4712 of 2014***. In this case the learned APP filed an application during the further examination-in-chief of the witness PW-1, seeking permission of the Court to produce the chit, alleged to be under the hand writing of the deceased. In this case it is held that by necessary implication a document can be filed subsequent to filing of the charge-sheet subject to following the procedure prescribed in section 294 of Cr.P.C.

8. The facts of the present case are different than the facts of the cases of the citations relied by learned APP. In the present case the prosecution has already examined seven witnesses. Now the prosecution seeks permission to produce the Station diaries as mentioned above, which are not produce along with charge-sheet. In such circumstances and considering the ratio laid down in the case of the citation relied by learned Advocate for the accused, if the prosecution is allowed to produce the alleged Station dairies on record, without following prescribed procedure under section 173(8) of Cr.P.C., it will definitely cause prejudice to the accused. Therefore, the application filed by the prosecution deserves to be rejected. Hence, the order.

ORDER

Application (Exh.119) is rejected.

(Vishwas S. Mane)

Date : 09/10/2025.

Additional Sessions Judge, Parbhani.