

Order below Exh. 66 in R.C.C. No. 01/2023
(CNR No. MHRT080000232023)

By the present application, the accused has prayed for recalling the informant for her further cross-examination.

02. Application is opposed by the prosecution as per reply filed at Exh. 68.

03. Perused the record. Heard both sides.

04. It is contended that, the accused has produced several documents as per list at Exh. 65. These documents are procured by the accused as per an application made under Right to Information Act. In view of those documents, the informant has to be further cross-examined, therefore, the accused has prayed for recalling her for such further cross-examination.

05. It is pertinent to note that, before producing aforesaid documents, accused made an application for recalling the informant. Said application is rejected by this Court as per order passed below Exh. 56 on 20/02/2023. Thereafter, present application is made.

06. It is noteworthy that, in the present case, the informant is cross-examined on 16/03/2018, 06/04/2018, 07/04/2018, 15/10/2018 and 02/07/2019. On the aforesaid dates, the informant is extensively cross-examined.

07. During the course of arguments, learned advocate Shri. S. G. Soman, appearing for the accused, has submitted that, the informant is an employee of Tahesil Office. She need to be further cross-examined as to how she reached the police station during

working hours to lodge the FIR.

08. However, aforesaid aspect is already dealt with during cross-examination of the informant already conducted.

09. Only because the accused has produced some documents belatedly and when there is nothing to show as to what precluded the accused to procure and produce the documents earlier, the informant cannot be recalled. Present case is in respect of sexual assault on a woman. In such cases, unless there is genuine reason, the informant cannot be recalled for her alleged further cross-examination. In fact, as per section 311 of the Code of Criminal Procedure, 1973, the Court may examine any person present before it as a witness, so also, the Court can call any person as witness or recall and re-examine any person already examined. However, such powers can be exercised only when it is so essential for just decision of the case. An accused cannot be allowed to prolong the matter on whimsical grounds. An informant cannot be harassed by compelling her to visit the Court repeatedly despite of the fact that she is extensively cross-examined on several dates. Present is one of such applications. Thus, it is liable to be rejected. Hence, following order -

ORDER

Application is rejected.

Sd/-

Date :- 02/02/2024

(B. D. Tare)
Judicial Magistrate F.C.
Deorukh.

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh. 66 in R.C.C No. 01/2023)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer	:- S. A. Bhale
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Deorukh
Date	:- 02/02/2024
Order signed by PO. on	:- 02/02/2024
Order uploaded on	:- 02/02/2024