

MHSN110002082015



ORDER BELOW EXH.69
Reg. Cri. Case. No. 37/2015
(State Vs. Kum. Rupali Waghmare etc.2)

1] The Present application is filed by prosecution under section 293 of Cr.P.C.

2] It is the contention of the prosecution that, charge sheet is filed against accused no. 1 and 2 under section 317, 109 r/w 34 of I.P.C. The prosecution has examined almost all listed witnesses. During the investigation, the I.O. has obtained DNA samples of accused no. 1, 2 as well as new born infant. The blood samples were forwarded to Directorate of Forensic Science Laboratory, State of Maharashtra, Kalina, Santacruz Mumbai. The report of DNA is filed in the charge sheet on 07/07/2015 through letter of Atpadi Police Station. The reports are prepared by Assistant Chemical Analyzer, Government Forensic Science Laboratory, State of Maharashtra, Kalina, Santacruz Mumbai, after due examination. This is an expert evidence. Hence, in view of provision of section 293 of Cr. PC the report may kindly be exhibited and read in evidence.

3] Accused have filed say overleaf the application and resisted the same. It is the contention of the accused that, the prosecution has not filed any document along with charge sheet.

There is possibility of tampering of evidence of such documents which are filed after filing charge sheet. This documents are not filed on record as per provisions of law. Hence, the report cannot be exhibited and read in evidence. The prosecution has examined all the witnesses and in this circumstances, the application filed by the prosecution is not tenable in the eyes of law. Hence, prayed to reject the application.

4] Heard Ld. APP and Advocate for the accused. I have gone through the charge sheet. It is pertinent to note here that, the prosecution has examined the investigation officer and the prosecution has proved the documents which are executed by the investigation officer for collecting DNA sample of accused no. 1 and 2 and of new born infant. The record further shows that, charge sheet is filed on 24/03/2015 and DNA report is filed with the permission of Ld. JMFC along with letter addressed to Ld. JMFC by police station Atpadi on 07/07/2015 to accept the DNA report below exhibit 15.

5] On perusal of report, it has been specifically stated that, the DNA analysis is started on 04/10/2014 and analysis was completed on 05/06/2015. This shows, when the charge sheet was filed the report was under observation of the laboratory. So, it was not possible to furnish the report along with charge sheet. The report is filed with the permission of the Court and at that time accused were represented in the trial by

their Advocate. Hence, there would not be procedural ground to disbelieve the DNA report which was accepted after filing charge sheet.

6] Section 293(1) of Cr. P.C. allows documents purporting to be reports from Government Scientific Experts to be used as evidence in inquiries or trials without the needs for expert testimony. Section 293 (2) grants the Court discretion to summon and examine the expert if it think fit. Sub section 4 specifies that, the categories of Government Scientific Expert, any Chemical Examiner or Assistant Chemical Examiner to Government, whose report can be admitted without examination, including Chemical Examiners, Directors Forensic Science Laboratory.

7] The discretion has be to proved judiciously and by considering the contentions of the accused. If the defence challenges the report's or the circumstances under which it was prepared, the Court may find it necessary to summon expert for examination. Considering this legal principle, the accused has nowhere challenged the validity of the report or raised any contention in regard of the circumstances under which the report is prepared. Hence, I do not find any valid and substantial ground to use the discretion and summon the expert to prove the DNA report in the present case.

8] On perusal of report, it can be seen that, it can be prepared Asst. Chemical Analyzer to Government forensic science laboratory Mumbai. This designation comes within the ambit of section 293 (4) (a) of Code of Criminal Procedure and the DNA report filed in the present case which has received from Govern Scientific expert can be admitted/admissible without experts examination as per provision of 293 of Cr.P.C.

9] Considering all these facts and circumstances and legal aspects, I proceed to pass following order.

ORDER

- 1] Application is 69 is allowed.
- 2] The DNA report filed along with exhibit 15 be exhibited and read in evidence in view of section 293 of Code of Criminal Procedure.

Atpadi
Date- 28/05/2025

(R.B. Kulkarni)
Jt. Judicial Magistrate F.C.
Atpadi

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer : Akash R. Jadhav
Court : Jt. C.J.J.D. & J.M.F.C., Atpadi.
Judgment/Order signed by
the Presiding Officer on : 28/05/2025
Judgment/Order uploaded on : 28/05/2025