

ORDER BELOW EXH. 197 IN SESSIONS CASE NO. 26/2013.
(CNR No.-MHST01-000334-2013)

1. This is an application filed on behalf of accused No. 1. It is stated that as per order below Exh. 194 dated 15/03/2018, the predecessor of this Court has passed evidence closed order against him. But in order to give the reasonable and fair opportunity to the defense, to decide the matter on merits, it is necessary to permit him to cross-examine the Medical Officer further. If permission is granted to him then no loss or prejudice would be caused to the prosecution. But if such permission is not granted to him then he would suffer an irreparable loss. Therefore, he prayed that by setting aside that order, the Medical Officer be recalled for her further cross-examination.

2. Say of the prosecution was called. It came to be filed over-leaf. It is mentioned that on the relevant date, matter was fixed for further cross-examination by the defense Advocate for accused No.1. But the order reflects that he has denied that opportunity. But, now accused No. 1 has again asked for recalling of the Medical Officer. Therefore, it was prayed that application may be rejected. In the alternative, it is mentioned that if this Court comes to the conclusion that permission is to be granted to the defense then application may be allowed.

3. After going through an application at Exh. 194, it is

seen that accused No. 1 sought an adjournment on the ground that he has already filed Transfer Application No. 33/2018 before Hon'ble the Principal District and Sessions Judge and therefore he prayed for an adjournment. By perusing the say of the prosecution, my learned predecessor passed an order regarding closure of evidence of Medical Officer i.e. P.W. 5 Dr. Aditi Patil. The note is passed on 15/03/2018 stating that no further cross-examination for accused No. 1 by his Advocate Mr. Ghadge.

4. From the documents on record, it is seen that an application at Exh 194 was already filed for adjournment by accused No. 1 with the specific contention that he has filed Transfer Application No. 33/2018 before Hon'ble the Principal District Judge for transfer of this case to some other Court. In that situation, the order regarding no further cross-examination was not warranted. In order to give the reasonable and fair opportunity to the defense to further cross-examination of the Medical Officer P.W. 5 Dr. Aditi Patil, no further cross-examination order passed against accused No.1 and consequently against accused Nos. 2 to 5 deserves to be set aside. Hence, the following order.

ORDER

1. Application is allowed.
2. No further cross-examination order passed against accused Nos. 1 to 5 on 15/03/2018 below Exh. 190 is set aside.
3. P.W. 5, the Medical Officer Dr. Aditi Patil be recalled for her further cross-examination by accused No. 1 and thereafter by

accused Nos. 2 to 5.

4. Both the parties to inform this Court the convenient date.

(Order is dictated and pronounced in the open Court)

Satara
Dt. 11/04/2018.

(R.D.Deshpande)
Additional Sessions Judge, Satara.