

Special Case No. 198 of 2021

(CNR – MHST01-002315-2021)

(State of Maharashtra Vs. Sanchit Krushna Dhumal and others)

COMMON ORDER PASSED BELOW Exh.34, 35 and 36

(Passed on 10th February, 2023)

01. Heard both sides at length. Perused record. The learned Counsel for accused No. 3 who moved Exh. 36, is absent when called. The applications are moved at the stage of framing charge so, the compliance under Section 207 of the Code of Criminal Procedure, 1973 needs to be complied, therefore, the accused No. 2 and accused No. 3 moved application for (1) supply SD memory card copy , (b) CCTV footage of the premises.

02. The learned counsel for accused No. 2 submitted that at the stage of framing charge, the accused needs to get opportunity to record his plea therefore, the documents are necessary to supply to the accused.

03. The learned APP for State submitted that the prosecution is relying on those document, the copies of the document will be supplied.

04. On perusal of chargesheet, it clearly reveals that the investigating agency recorded conversation in SD card. The natural voice sample were also taken. It was expected that prior to sending the seized SD card copies and those natural voice samples and including conversation along with its Hash value was to be supplied to the accused so that during the framing of charge, till the receipt of

Forensic report the accused could get an opportunity for recording his plea. Today, the APP for State has submitted that the original SD cards are sent to the Forensic Laboratory. Thus, it appears that unless the original SD cards are returned till that date the charge cannot be framed.

05. So far as concern the CCTV footage, the charge-sheet does not speak that the prosecution is relying on CCTV footage. However, the document filed by accused on record, it clearly reveals that the investigating Agency has collected CCTV footage from the premises and application was moved to the Chief Officer of the Municipal Council. The learned counsel for accused submitted that as the Investigating Officer has already collected CCTV footage therefore, though prosecution is not relying on those CCTV footage, still the accused are entitled to get its copies. In my view, such CCTV footage needs to be saved and stored along with its hash value. The record does not clear that the Investigating Officer got CCTV footage along with hash value and 65B certificate. Hence, whatever the document collected by Investigating Officer and has not filed on record cannot be compel to produce it.

While hearing to this application, it was asked to the learned counsel for accused No.2, whether accused himself had applied to the Chief Officer of Municipal Council to supply CCTV footage. The learned defence counsel stated that he has not applied and it does not reflect that accused had moved application to the Chief Officer of Municipal Council.

06. Now the incident was occurred on 06.06.2020 and thereafter so prior to issuing a warrant / summons under Section 91, it is necessary to ascertain the availability of the CCTV footage and its Hard disk at premises. Such CCTV footage needs to be collected through expert so that hash value can be saved along with 65B certificate by the person who is in possession of that entire system. Moreover, the entire Hard disk can also seize. Hence, I proceed to pass the following order.

ORDER

[1] The prosecution to supply the copies of SD Memory card, voice sample along with its hash value to the accused prior to framing of the charge and recording plea.

[2] The applicant is at liberty to file on record about the availability of CCTV footage, Hard disk at the premises so that rest of order can be passed.

[3] Issue letter to the Chief Officer, Municipal Council about availability of the CCTV footage and Hard disk.

[4] Further order regarding the CCTV footage will be passed on merit.

Satara
Date : 10th February 2023

(Sanjay R. Salkute)
Special Judge, Satara.