



ORDER BELOW EXH.122 IN SESSION CASE NO. 131/2018

The State of Maharashtra - Prosecution

Vs.

Prasad Prakash Kulkarni & Ors. - Accused

This application is filed by the prosecution on behalf of the witness to take some documents on record which are in his possession.

02. The Defence Advocate by filing say of this application itself strongly objected this application.

03. Heard both sides.

04. It is submitted by the learned APP that :-

a] The documents which are filed alongwith list annexed to this application are in possession of the Medical Officer. The said documents are correspondence made by the Investigating Officer during the course of investigation.

b] However, upon perusal of the charge-sheet, it does not appear that the said documents are part of the record of this Court. Hence, these documents are being produced through the proper custody of the witness.

c] As some documents relating to the present crime are already on record, those are required to be taken on record.

05. As against this, learned Advocate Shri. S. H. Panhale appearing for the accused Nos. 1 and 2 submitted that :-

a] The said documents are not part of the charge-sheet and the said documents if allowed to be taken on record may hamper the defence of the accused.

b] In support of this submission, Advocate Shri. Panhale also relied upon the observations of the Hon'ble Bombay High Court passed in case of ***Bharat @ Bhomaram Choudhary Vs. State, 2024 DGLS (Bom.) 4815.***

06. After hearing both the parties, it appears that today the Medical Officer-Dr. R. N. Kadam is present before this Court and during his evidence, he has filed some documents on record alongwith this application. The original documents are in his custody and he has filed on record true copies of the said documents. However, the defence has objected to take these documents on record.

07. It appears that the first document is a letter when the Police referred dead body of the deceased to the Hospital. Though, this document is not part of the record, one relating document i.e. post mortem report is already on record. Thus, this document is not surprising to the accused.

08. Further, it appears that the second document i.e. advance death certificate is already on record and copy of the same is already supplied to the accused.

09. The third document is a letter by which blood sample of the deceased was handed over to the Police in order to forward the same to the Forensic Science Laboratory. Already CA reports regarding the same are on record and this document is also not surprising to the accused.

10. The fourth document is a letter bearing Outward No. 2030/2018 issued by the Investigating Officer to the Medical Officer, Civil Hospital, Satara seeking opinion regarding connection between the cause of death and the weapon allegedly used in the said crime. Record shows that this Medical Officer has already issued his opinion which is filed alongwith charge-sheet at Sr. No. 81. In the said opinion letter Outward No. 2030/2018 of Shahupuri Police Station is mentioned. Hence, this document is also not surprising to the accused.

11. So far as, submission of the accused for production of such documents may hamper the defence of the accused is concerned, it is to be noted that the accused is at liberty to take cross-examination of this witness and of the Investigating Officer also in rebuttal.

12. Further, observations made in ***Bharat @ Bhomaram Choudhary Vs. State (supra)***, referred by the accused is concerned, the facts of the cited case and the case in hand are

not similar. In the cited case, documents which were not produced before the Court at the time of filing charge-sheet were intended to be filed and which were in possession of the victim therein. In the present case, the documents which intended to be produced on record are connected with the documents which are already on record. Moreover, these documents are in possession of the impartial witness i.e. Medical Officer attached to Government Hospital, Satara and not in possession of the victim. Hence, with due respect, observations of the Hon'ble High Court, the facts in the present case varies from the facts in cited case, the said case law is not applicable in the present matter. Hence, the following order -

ORDER

1] Production of documents is allowed as these documents are filed on record through the custody of Medical Officer.

2] The accused are at liberty to cross-examine the witnesses on these documents in their defence.

Sd/-

Date : 09/07/2025

(Surekha S. Kosamkar)
Sessions Judge, Satara.