

CNR: MHST190011732023



Order below Exh.106 in Sessions Case No. 63 of 2023

(State of Maharashtra Vs. Punam Ashok Kamble)

(Passed on : 15.09.2025)

1] Learned Counsel of accused has filed application **Exh.106** inter-alia contending that evidence of PW1- first informant/aggrieved person and evidence of PW2- panch have been recorded on 17.04.2023. They were cross-examined by previous Counsel of accused Shri. R.V.Joshi. Now, accused has changed her Advocate. New Advocate Shri. V.B.Patil has filed his Vakalatnama for accused. Thereafter, he realized that witness no.4 in cross-examination has stated about the fact of issuance of Office Order and issuance of corresponding letters to the concerned. Such aspect is important one. In view of this, according to new learned Counsel of accused, on the point of issuance of office order and on the point of corresponding letters, so also, on the point of footings available in C.C.T.V. cameras, PW1 and PW2 need to be cross-examined. On the basis of main these grounds, it is implored to allow the application Exh.106 about recalling those witnesses i.e. PW1 and PW2 by issuing summons to them.

2] Learned APP Shri. Patil has strenuously opposed said application by raising objection that there is no ground for recalling the witnesses. After examining PW1 and PW2, they were cross-examined by previous Advocate of accused till their satisfaction. Mere change of Advocate cannot be the ground for recalling them.

There is no legal ground to allow the application Exh.106. Lastly, it is requested for rejecting the application Exh.106.

3] I have heard learned defence Counsel Shri.VB.Patil and learned APP Shri. D.S.Patil for prosecution.

4] I have considered submissions of both the parties. On perusal of record, it will find that evidence of PW1 was completed on 17.04.2023 and evidence of PW2 was completed on 07.06.2023. Instant application has been moved on 10.07.2025. On perusal of their evidence, it will find that PW1 was cross-examined at length and PW2 was sufficiently cross-examined by previous learned Counsel of accused. Though it is not mentioned in the application Exh.106 that previous Counsel of accused had not cross-examined on above mentioned points, but hidden point is certainly that previous learned Counsel of accused did not cover material points, as expected by new engaged learned Counsel Shri V.B.Patil.

5] In above context, it would be expedient to consider the judgment reported in **AG – Versus – Shiv Kumar Yadav & another, AIR 2015 Supreme Court 3501**. In such judgment, in para no.21, various guidelines have been given regarding the aspect of recalling witness after changing previous Advocate. Guideline no.(ii) & (vii) read as under :

(ii) No finding could be recorded that the counsel appointed by the accused were incompetent particularly at back of such counsel;

(vii) Mere change of counsel cannot be ground to recall the witnesses.

6] In view of above made discussion and having no ground found to recall prosecution witnesses i.e. PW1 and PW2, I find that present application Exh.106 is non-meritorious one. Therefore, it is liable to be rejected. As such, following order is passed.

ORDER

Application (Exh.106) stands rejected.

Wai
Date: 15.09.2025

(R.N.Mehare)
Additional Sessions Judge, Wai.