

ORDER BELOW EXH. 28 & 29 IN SPECIAL (POCSO) CASE NO.36/2024  
\_CNR No. MHTH01-000499-2024

The complainant has stated that in the present case, the second offence occurred on 26/11/2023 and therefore, it is necessary that CDR and SDR data are preserved.

2] The accused has objected application contending that the complainant is not prosecution agency.

3] It appears as per the allegations in the F.I.R. the applicant / accused on 26/11/2023 has committed serious offence of committing rape on minor girl and compelling her to do oral sex with accused. The learned Counsel for the complainant stated that the investigating machinery has not collected C.D.R. and S.D.R. for the month of November-2023 but have collected only for October-2023.

4] Learned counsel for complainant has cited Judgment in case of *State of Orissa V/s. Devendra Nath Padhi : Appeal (Cri.) 497 of 2001* in which it is held that, as per Section 91 of the Code of Criminal Procedure, a relevant document can be ordered to be produced.

5] The learned Counsel for complainant also cited Judgment in case of *XYZ V/s. State of Madhya Pradesh & Ors. : 2022 ALL SCR (Cri) 2274* in which it is held that,

*“In this backdrop, we are clearly of the view that the JMFC ought to have exercised jurisdiction under Section 156(3) of Cr.P.C. to direct the police to investigate.”*

6] The case in hand is regarding serious sexual assault on minor victim girl and rape on her. Hence, it will be proper to direct the investigating machinery to collect the evidence of CDR and SDR as it is regarding alleged incident in the month of November-2023 as contended

by the complainant.

7] Considering seriousness of offences and that there is substance in the argument of learned Counsel for complainant that CDR and SDR is a relevant piece of evidence, it will be proper to direct the investigating machinery to preserve and collect such data. Hence, pass following order.

**:: ORDER ::**

- 1] Application Exh.28 is allowed.
- 2] Prayer clause-A of Application Exh.29 is allowed.
- 3] Issue letter to concerned investigating officer immediately.

Date - 24/11/2025  
Thane.

(S.P.Agarwal)  
Special Judge (POCSO), Thane.