

Spl.(Ch)C.No. 107/2023
State-Vs- Shubham Panbude

Order below Exh.12

- 1] Perused application and say. Heard Advocate of accused no.2 and PP for state.
- 2] Application is filed u/sec.173(8) of Cr.P.C. for directing prosecution to produce call records of victim and accused no.2. According to accused he is falsely involved in this offence, he has no criminal antecedents. Story of victim in her supplementary statement is false and fabricated. On the day of alleged incident, victim herself made phone call to accused no.2 that she is not going to college and she herself came to meet accused no.2. But prosecution has not filed call details of victim on the day of alleged incident, said documents are relevant in the case so this application is filed.
- 3] PP for state filed say at Exh.13 and objected application on the ground that it is not prosecution case that victim and accused no.2 were talking with each other. If such type of defence is raised by accused no.2, he has to prove the same and prosecution cannot be directed to submit to call details so he prayed to reject application.
- 4] As per provisions of sec.173(8) of Cr.P.C. if during further investigation. Officer In-charge of police station obtains further evidence, oral or documentary he shall forward it to Magistrate. So as per said provision, accused cannot direct prosecution to submit any documents but it is between Investigating officer and Magistrate regarding further evidence. It appears that it is defence of accused no.2

regarding acquaintance with victim and they were talking with each other, for that purpose accused has to lead evidence at proper stage.

5] Moreover in oral report, supplementary statement victim only stated that in Scorpio vehicle she saw Ashpak to whom she was knowing. It is not her statement that there was acquaintance, friendship between her and accused no.2, they were talking with each other, making phone calls to each others. In absence of such type of statements and by taking recourse of section 173(8) of Cr.PC., prosecution cannot be directed to submit call details record between victim and accused no.2 as prayed. In view of above discussion, legal provisions, application deserves to be rejected with following order.

Order

Application is rejected.

Dt. 22.03.2024

(Smt. R.V. Adone)
Special Judge
(POCSO Act), Wardha

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

[S.V. Dakhane]
(Stenographer G-1)