

MHYA050022542019



ORDER BELOW APPLICATION EXH. 83 IN S.C.C No. 1047/2019
(Dr. Anand Ashokrao Komawar -Vs- Dasu Uttamrao Deshmukh)

1) Accused has filed present application for setting aside evidence close order passed against him. It is the contention of accused that, he was in judicial custody in false case. During that period, his evidence is closed as per order passed below Exh. 01. He wanted to examine Salman Malani & Deepak Korche as his witness. Further he stated that, to decide the present case on merit, it is required to set aside evidence close order passed against him. Hence, he prayed to allow the application.

2) The learned counsel for complainant has strongly opposed the present application. He contended that, accused is trying to prolong the proceeding of this case. On previous date, he was absent and evidence close order passed against him. Today, present case is fixed for argument. Lastly, he prayed to reject the application.

3) Heard both the sides and perused all record and proceedings. It is stated by the accused that, on previous date he was in jail and therefore he failed to adduce his evidence. Considering the nature of application and for proper adjudication an opportunity should be given to the Accused. If opportunity will be given to the Accused the complainant will not suffer any irreparable loss. The complainant will get an opportunity to take cross examination of the witnesses. Also, the complainant can be compensated by affording costs upon the Accused. Hence, to avoid multiplicity of proceedings and in the interest of justice. I proceed to pass following order :

-: O R D E R :-

- (1) The application Exh.83 is allowed.
- (2) Evidence close order passed against accused is set aside subject to costs of Rs. 500/- (Rupees Five Hundred only).
- (3) The Accused to pay costs to the complainant till next date.
- (4) If accused failed to pay cost till next date then present application deemed to be automatically rejected.

Date : 13/09/2024.

(Smt. S. S. Lohkare-Jadhav)
Judicial Magistrate First Class,
(Court No. 3), Pusad.