

ORDER BELOW EXEMPTION APPLICATION IN
R.C.C.No.147/2002

That, as per the order of Hon'ble High Court in P.I.L.No.25/2014 dated 6th March, 2019, this Court was directed to dispose off the matter within a period of three months. Meanwhile, the Hon'ble Bombay High Court seating at Mumbai has called the Record & Proceedings in another connected matter and therefore, Record & Proceedings was forwarded to Hon'ble Bombay High Court. Meanwhile, this matter in P.I.L.No.25/2014 was taken up by Hon'ble Bombay High Court, Bench at Nagpur in which the Hon'ble High Court has called the entire Record & Proceedings sent to Bombay High Court and further directed this Court to dispose off the matter within three months.

Initially, the Record & Proceedings of this matter was not before this Court and so the matter was adjourned to 7.12.2019. However, due to further directions of the Hon'ble Bombay High Court, bench at Nagpur, this matter was again taken on board and fresh summons were issued to accused to appear before this Court on 16.10.2019. On that day, almost all the accused have appeared except accused No.7 and accused No.3 and one absconded accused namely accused No.10 Kanan Mewawala. The proceeding against accused No.3 is already stayed and directions were also issued to proceed with the matter against other accused except present accused No.3. On 16.10.2019, matter was adjourned to 22.10.2019 i.e. till today as myself was at Bhopal to attend one seminar arranged by NJA. Today, all the accused are present except accused No.3 against whom proceeding is stayed and one Kanan Mewawala who is absconding since beginning and accused No.7 Amit Verma.

Accused No.7 Amit Verma today has moved an application seeking exemption from attendance for today alleging that he has to appear for some examination and his last paper is on today itself. He filed

on record the copy of his Examination Admit Card. Learned APP objected the application in view of the directions of the Hon'ble High Court to dispose off the matter within three months. Since charge is yet to be framed and considering the reasons shown by the accused No.7 and as matter can not be proceeded against other accused by framing charge in absence of accused No.7 and as the reasons shown by accused No.7 appears to be just and proper one, the exemption for attendance deserves to be granted to accused No.7. Since the matter can not be proceeded by framing charge and as some of the advocates for accused have submitted that they want to make some submission and hearing before framing charge, the matter deserves to be adjourned.

I have asked the parties to remain present on 24th of this month only. However, some of the accused have come from Mumbai and one accused from Calcutta and therefore, advocate for these accused submitted that it is not possible for them to go and come back within two days and even to stay here at Nagpur during this period and thus, advocate prayed to adjourn the matter after Diwali Holidays.

In view of all above and as all the advocates have shown their readiness to cooperate and to keep the accused present after Diwali Holidays, matter deserves to be adjourned for hearing and to frame the charge, if required, on the very opening day after Diwali Holidays i.e. on 1st November, 2019. Hence, the order.

ORDER

- 1] The matter is adjourned to 1.11.2019.
- 2] All the accused with their advocates are directed to remain present sharp at 11 a.m. on 1.11.2019.
- 3] Exemption is granted to accused No.7.

Nagpur
Date: 22.10.2019.

Sd/-
(K.S.Totla)
Chief Judicial Magistrate, Nagpur.

ORDER BELOW EXH.No.1087.

In view of the common order passed below applications Exh.1088, 1089 & 1090, the matter is already fixed for 14.11.2019 for framing of charge. Hence, personal exemption is granted for today only with a direction to accused to remain present on the adjourned date.

Dt. 11.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

COMMON ORDER BELOW EXH.1088, 1089 & 1090.

1] All these applications are moved on behalf of accused No.2, 4 to 6 and 7 respectively for supply of charge-sheet as per the provisions of Section 207 of the Code of Criminal Procedure, 1973. Heard learned counsels for the respective accused persons and learned APP.

2] It is submitted on behalf of the accused, that it is their valuable right to receive copy of charge-sheet along with it's annexures to understand the charge which the Court intends to frame against them. The reliance is placed on the ratio laid down in the following cases :

i] **Madhukar Sukhdeo Thube Vs. State of Maharashtra & Anr. 2014 All.M.R.(Cri)1451** – In Para No.7 of the judgment it observer thus :

“It is clear on a bare reading of the said section that before considering whether or not to proceed against an accused by framing a charge, it is incumbent upon a Magistrate to satisfy himself that provisions of Section 207 have been complied with. The same has not been done in the instant case.”

ii] **State of Karnataka Vs. C.K.Devraj 1993(1) CRIMES 591.** The learned counsels for accused have invited the attention of this court on the observation made by the Honorable Karnataka High Court in Para No.2 of the said judgment i.e. *“.....the Trial Court ought not to have proceeded to decide the case calling upon the accused to plead for accusation without giving him some time to go through the papers.”*

3] By placing reliance upon the law laid down as above, the learned counsels for accused submitted that the requisite copies of chargesheet and its annexures are not provided to the accused. Therefore, the same are necessary for them to get the idea about the charge intended to

be framed against them.

4] It is the submission of learned APP that applications for documents are coming after number of years and in view of the time-bound programme fixed by our Honorable High Court, the applications deserve to be rejected. She has also submitted that the learned counsels for accused can peruse the record, if some of the copies available with them are not legible or even not available . The record is bulky one and therefore, it is not possible to again provide the copies to the accused.

5] Perusal of record would show that there are endorsements of the accused persons/ their counsels that they had received the copy of charge sheet and supplementary charge-sheet. However, it appears that there is some mistake in preparing the index. It is fairly submitted on behalf of the accused that the index which was provided to them is not matching with the actual charge-sheet submitted before the court.

6] Be that as it may, it appears from the record that the compliance of Section 207 has been materially done and the endorsement to that effect has been obtained on charge-sheet and supplementary charge-sheet. Irrespective of the same, the record is available for inspection by the learned counsels for the accused. Even in the present applications, it is clearly mentioned that the inspection of Court record was taken by the learned counsels for the accused and thereafter only, it was revealed that some documents are not supplied and index is mismatching. This fact makes it clear that compliance of Section 207 is properly done and therefore, there is no hurdle to proceed with the trial which is pending for framing of charge.

7] In view of the above observation, it is submitted that the learned counsels for the accused can not take the aid of aforesaid citations in the

present set of facts. In the result, following order is hereby passed :

ORDER

- 1] The applications (Exh.No.1088, 1089 and 1090) are hereby rejected. However, learned counsels for accused have orally requested the Court to give them time of one day by adjourning the matter to 14th November, 2019. Hence, the matter is adjourned till 14.11.2019.
- 2] All the accused are at liberty to inspect the record today and also on 13.11.2019 through their learned counsels.
- 3] On 14.11.2019 the matter will be fixed for framing of charge.

Dt. 11.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

नोटशीट
(दिनांक १३.११.२०१९)

दिनांक ११.११.२०१९ रोजी मा. न्यायालयाने नि.फौ.ख.क. १४७/२००२ मध्ये निशानी क्र.१०८८, १०८९ व १९०९ मध्ये जो आदेश पारित केला होता व तो आदेश मी त्याचदिवशी अपलोड केला, परंतु अनावधानाने मी दुरुस्ती होण्यापूर्वीचा आदेश त्यावरील सर्टीफिकेटशिवाय अपलोड केला. सर्टीफिकेट असलेला दुरुस्ती झालेनंतरचा आदेश अपलोड होणे गरजेचे आहे. करीता, सर्टीफिकेट असलेला दुरुस्ती झालेनंतरचा आदेश अपलोड करण्याची परवानगी देणेत यावी, ही विनंती.

Amos

(कु.जी.ए.जोशी)
लघुलेखिका (श्रेणी २),
संलग्न सहदिवानी न्यायाधीश व. स्तर,
नागपूर

o
seen.

Allowed with a direction
to take care in future while
uploading the orders.

(Signature)
13/11/19

ORDER BELOW EXH.No.1.
(Dated 14th November, 2019)

Heard learned respective counsels for accused Nos.1, 4 to 9 & 11 on framing of charge. Whereas, Advocate Mr. Bhangade appearing for accused No.2 and learned APP for State have orally requested to keep the matter for their hearing/ reply in the second session. Hence, put up the matter for their hearing in the second session today.

Dt. 14.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



Order Below Exh.1
Digitally signed by
Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2019.11.16
17:54:31 +0530

ORDER BELOW EXH.No.1.
(Dated 14th November, 2019)

1] Heard learned APP, Adv. Mr Bhangade for accused No.2, and the reply argument on behalf of all other accused except accused No.3 Sanjay Agrawal and the absconding accused No.10 Kanan Mewawala.

2] It is submitted on behalf of the accused persons that there is nothing on record to demonstrate any prima facie case against them. The Court has no territorial jurisdiction to entertain and try the case as such. All the alleged transactions have been done at Mumbai. The entire proceedings of this case are stayed by the order of Honorable High Court, Principal Bench at Mumbai. The case is required to be dealt with by the Special Public Prosecutor. The learned APP ought to have provided draft of charges, however the same has not been done. There is nothing on record to demonstrate that there was any criminal conspiracy and that the accused have committed any crime. The prosecution itself does not know the amount of misappropriation. In addition to above, on behalf of accused No.1, 2 and 11 it is further submitted that, these accused had never prepared any false document and not committed any forgery. In fact, initially the accused No.1 had reported the matter to Police. Therefore, no role whatsoever can be attributed to them in the alleged crime. Hence, there is no material in framing the charge against any of the accused and that the accused are required to be discharged.

3] On the other hand, learned APP has submitted that there is ample material on record to demonstrate the involvement of accused persons in the alleged crime. The charge-sheet alongwith annexures is provided to accused persons long back. They are having complete idea from the charge-sheet and documents supplied to them, as to under which penal provision they are chargesheeted. Therefore, there is no need and even no provision in law for providing any draft of charges. The charge-sheet and documents

demonstrate the entire link of criminal conspiracy reached upon by the accused persons to withdraw and misappropriate the money entrusted by the Bank. That apart, there is ample evidence even to disclose that the accused have common intention to commit the alleged crime and that they have committed the same.

4] In reply, learned counsel for accused submitted that the charge under Section 120(B) and 34 of Indian Penal Code can not be raised simultaneously. There is no evidence of meeting of minds between accused to commit the crime. The charge of conspiracy is not at all made out and Advocates Mr. Ahuja and Mr. Purohit would submit that it is a pure case to discharge all the accused under Section 239 of the Code of Criminal Procedure.

5] Having heard the arguments as above and upon considering the charge-sheet and it's annexures, this Court is of the considered view that there is sufficient material to frame the charge against accused persons under Section 120(B) and Sections 406,409,468,471 read with section 120(B), in alternative read with Section 34 of the Indian Penal Code. The defence of inadequacy of evidence or falsity of prosecution case can not be considered at this stage as against the charge-sheet and documents produced on record.

6] So far as territorial jurisdiction is concerned, the charge-sheet would disclose the allegation that the accused persons had means rea to form a criminal conspiracy for withdrawing the money of Nagpur District Central Co-operative Bank by anyhow obtaining sanction for withdrawal of such amount and accordingly, by using illegal means they obtained the same from Headquarter of Bank at Nagpur. Therefore, only because bank at Nagpur was having account at Mumbai and that the monetary transactions were taken place through that account is not sufficient to oust the

jurisdiction of this Court to entertain and try the case. As per the allegations in the charge-sheet, the main part of criminal conspiracy to anyhow create some documents/illegal resolution for transferring the amount to various companies handled by and in the name of various accused persons under the guise of purchasing government securities was done at Nagpur itself. Hence, the submission on behalf of accused about lack of territorial jurisdiction to proceed with the trial appear to be meritless and required to be rejected.

7] The submission on behalf of accused that the case is required to be handled by a Special Public Prosecutor can not be considered at all. It is for the Prosecution to decide as to who should represent the case on it's behalf. Accused can not dictate the prosecution for appointment of a Special Public Prosecutor. It is contended on behalf of accused persons that proceedings is stayed by our Honorable High Court, Principle Bench at Mumbai. However, the fact remains that this trial is being held as per the directions issued by our Honorable High Court, Bench at Nagpur in P.I.L. No. 25/2014 and P.I.L.No. 58/2019 Omprakash Kamdi and others Vs. State and others, vide orders dated 23/12/2014 and 07/11/2019 respectively.

8] As such, the submissions/objections raised on behalf of accused persons are devoid of any merits. Hence, upon consideration of the charge-sheet and the documents filed with it and after hearing the learned counsels for accused and Learned A.P.P. this Court is of the considered view that there is sufficient ground to frame the charge against all the accused persons for the offences punishable under Section 120(B) and Sections 406, 409, 468, 471 read with section 120(B), in alternative read with Section 34 of the Indian Penal Code.

9] In view of above discussion following order is hereby passed.

ORDER

1] All the objections raised on behalf of accused persons on the point of framing of charges alongwith prayer to discharge the accused hereby stand rejected.

2] The matter shall be proceeded ahead as against accused persons excluding accused No.3 Sanjay Hariram Agrawal and accused No.10 Kanan Vasant Mewawala who appears to be absconding since long.

Dt. 14.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



Order Below
EXH.1-2

Digitally signed
by Shekhar
Ramnathji Totla

Location: Nagpur
Date: 2019.11.16
17:56:30 +0530

ORDER BELOW EXH.No.1.
(Dated 14th November, 2019)

Ld. APP is directed to submit list and programme for examining witnesses during the first 10 days commencing from 02-12-2019 and both the parties are directed to comply as per the provisions of Section 294 of I.P.C. as on 18-11-2019.

Dt. 14.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



Order Below
EXH.1-3
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by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2019.11.16
17:58:09 +0530

ORDER BELOW EXH.No.1107.
(Dated 26th November, 2019)

- 1] On behalf of defendant Nos.4 to 7 say is filed and documents mentioned in the notice are denied.
- 2] On behalf of other accused persons, no say is filed. None appeared on behalf of them to file the say till 4.50 p.m.
- 3] Hence, filed.

Dt. 26.11.2019

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002
(Order below
Exh.1107)

Digitally signed
by Shekhar
Ramnathji Totla

Location:

Nagpur

Date: 2019.11.27
16:58:24 +0530

ORDER BELOW EXH.NO.1.

It is brought to the notice of Court by the learned counsel for accused No.7 'Amit' Sitapati Verma that the name of accused No.7 is wrongly typed as 'Amol' in the charge Exh.1096. It requires to be corrected. Hence, the same be corrected.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1
dt.2.12.2019)
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2019.12.03
15:32:10 +0530

ORDER BELOW EXH.NO.1111.

As the accused has undertaken not to dispute the identity of witness and his learned counsel is ready to conduct the cross-examination of witness on his behalf, personal exemption is granted for today only.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1111-
dt.2.12.2019)
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Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2019.12.03
17:40:26 +0530

ORDER BELOW EXH.NO.1112.

As the accused have undertaken not to dispute the identity of witness and their learned counsel are ready to conduct the cross-examination of witness on their behalf, personal exemption is granted for today only.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002
(Order below
Exh.1112-
dt.2.12.2019)

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Ramnathji Totla

Location: Nagpur
Date: 2019.12.04
11:11:04 +0530

ORDER BELOW EXH.NO.1115.
(02.12.2019)

While the examination-in-chief of witness Mr. Bhaurao Aswar was in progress, he complained that he was not feeling well and that his blood-pressure has been raised. According to him, he is not feeling comfortable and he requires to go to hospital. With this complaint, he has also filed the application Exh.1115.

Learned APP and learned counsel for accused have no objection to adjourn the matter. It is also submitted by both the parties that this witness being a material witness, his examination-in-chief and cross-examination may take at least three days. Learned APP has prayed to reschedule the programme to 3rd, 4th and 5th December, 2019 so as to give adequate time to both the parties to examine and cross-examine this witness.

Considering the submission of witness about his health and owing to the requests by both the sides, the matter is adjourned for today only. Witness Mr. Bhaurao Aswar to remain present on 4-12-2019.

So far as rescheduling the programme of examination of witness is concerned, the same will be considered after receiving the service reports of the witnesses intended to be examined on the concerned dates.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.NO.1116.
(02.12.2019)

The evidence of none of the witnesses is yet completed. Hence, the application be kept pending till the appropriate stage.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1116-
dt.2.12.2019)

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Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.04
11:14:09 +0530

ORDER BELOW EXH.NO.1117.
(02.12.2019)

The evidence of none of the witnesses is yet completed. Hence, the application be kept pending till the appropriate stage.

Dt. 02.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1117-
dt.2.12.2019)

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Totla

Location: Nagpur
Date: 2019.12.04
11:15:54 +0530

ORDER BELOW EXH.No.1106.
(Dated 18th November, 2019)

1] In view of earlier order passed by this Court below Exh.1 dated 14.11.2019, learned APP has submitted the list of witnesses alongwith the programme of trial for first ten days w.e.f. 2.12.2019 to examine in all 34 witnesses i.e. P.W.1 to P.W.34 as shown in the list of witnesses.

2] Hence, as per the directions of our Honourable High Court to proceed with the trial since 2.12.2019, witness summons be accordingly issued. The witnesses will be examined as per following schedule :

1st Day The Programme Dated: 02/12/2019

1) Shri. Bhaurao Vishwanath Aswar – (1)

2nd Day The Programme Dated: 03/12/2019

1) Shri. Natthu Govindrao Aswar – (2)

2) Shri. Sheshrao Shyamrao Gode – (3)

3rd Day The Programme Dated: 04/12/2019

1) Shri. Madhukar Bhaiyyaji Wakhane – (4)

2) Smt. Sandhya Arun Dani – (5)

3) Shri. Ramesh Vynkat Nimke – (6)

4th Day The Programme Dated: 05/12/2019

1) Shri. Vishwanath Vithoba Nimje – (7)

2) Shri. Vasant Kawdu Parshivnikar – (8)

3) Shri. Ashish Ranjit Deshmukh – (9)

4) Smt. Smita Ashok Kumbhare – (10)

5th Day The Programme Dated: 06/12/2019

1) Shri. Ganpati Kewalram Shahir – (11)

2) Shri. Mukund Bhikaji Pannase – (12)

3) Shri. Babanrao Bhaurao Taywade – (13)

4) Shri. Shyamrao Ganpat Dhawad – (14)

6th Day The Programme Dated: 07/12/2019

1) Shri. Nagorao Raghunath Jibhkate – (15)

2) Shri. Vithal Ramkrushna Hulke – (16)

- 3) Smt. Kusumtai Gajanan Kimmatkar – (17)
- 4) Shri. Chandrashekhar Tukaram Samarth – (18)

7th Day The Programme Dated: 09/12/2019

- 1) Shri. Santosh Lilbaji Chaure – (19)
- 2) Shri. Anil Ramkishor Gupta – (20)
- 3) Shri. Vasanta Bhaurao Wande – (21)
- 4) Shri. Bhaurao Chandrabhan Shahane – (22)

8th Day The Programme Dated: 10/12/2019

- 1) Smt. Ashabai Chanduji Mahaajan – (23)
- 2) Smt. Morba Vithoba Nimje – (24)
- 3) Shri. Ashok Yashwant Gujar – (25)
- 4) Shri. Ramesh Pandurang Gawande –(26)

9th Day The Programme Dated: 11/12/2019

- 1) Shri. Sukhdev Bhikaji Patil – (27)
- 2) Shri. Rameshchandra Gopikishan Bang – (28)
- 3) Shri. Sanjay Niranjan Chaukase – (29)
- 4) Smt. Shalini Rajendra Shukla –(30)

10th Day The Programme Dated: 12/12/2019

- 1) Shri. Vinod Balkrishna Menon – (31)
- 2) Shri. Mukesh Rameshchandra Somani – (32)
- 3) Shri. Hiren Uday Gada – (33)
- 4) Shri. Jaykumar Rasiklal Mehta –(34)

3] For compliance of provision of Section 294 of the Code of Criminal Procedure, learned APP has prayed to put up the matter tomorrow. Hence, put up the matter on 19.11.2019 for that purpose only.

4] Ld. A.P.P. to prepare the programme for next 10 days starting w.e.f. 16/12/2019 onwards and to submit the same on 02/12/2019.

5] The Ld. A.P.P. and all the learned counsels for all the accused to note the same.

Dt. 18.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002
(Order below
Exh.1- dt.
18.11.2019)

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Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.11.20
11:03:18 +0530

ORDER BELOW EXH.No.1109.
(Dated 14th November, 2019)

Allowed for the reasons mentioned in the application.

Dt. 22.11.2019

Sd/-
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

CERTIFICATE

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1109-
dt.22.11.2019)

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Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.04
11:56:29 +0530

ORDER BELOW EXH.NO.1121.
(03.12.2019)

For the reasons mentioned in the application, the programme of examining the witnesses is required to be rescheduled. The learned Special Public Prosecutor has orally submitted the schedule as under :

On 16.12.2019	:-	Natthu Govindrao Awari
On 17.12.2019	:-	Sheshrao Shamrao Gode
On 18.12.2019	:-	Madhukar Bhaiyyaji Wakhane & Sandhya Arun Dani
On 19.12.2019	:-	Ramesh Vyankat Nimke, Ashish Ranjit Deshmukh & Smita Ashok Kumbhare

The witness summons be reissued to the concerned witnesses accordingly.

Dt. 03.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1121-
dt.3.12.2019)

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Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.04
12:34:46 +0530

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.NO.1135.
(04.12.2019)

Personal exemption is granted for today only subject to conducting of cross-examination of witness without disputing the identity of accused.

Dt. 04.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1135-
dt.4.12.2019)
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2019.12.05
17:32:01 +0530

ORDER BELOW EXH.NO.1136.
(04.12.2019)

Personal exemption is granted till further order subject to condition of conducting cross-examination of witness/ witnesses without disputing the identity of the accused.

Dt. 04.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1136-
dt.4.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.05
17:33:59 +0530

ORDER BELOW EXH.NO.1.
(05.12.2019)

Learned counsel for accused No.11 brought to the notice of the Court that in Paragraph No.16 of the examination-in-chief of (P.W.1) Mr. Bhaurao Aswar, there is mistake in typewriting the word 'वादातील'. After hearing the learned counsels for respective parties and learned Spl.P.P. & A.P.P., it is clear that it is a clerical mistake and said word is required to be corrected to 'वादातील'. It be corrected accordingly.

Dt. 05.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002
(Order below Exh.1-
dt.5.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.06
17:04:24 +0530

ORDER BELOW EXH.NO.1169.
(05.12.2019)

It is prayed on behalf of accused No.4 to 7 to adjourn the matter today for cross-examination of Bhaurao Aswar (P.W.1). Accused No.7 is present in person alongwith learned counsel Mr. Ahuja. They have submitted that Advocate Mr.Purohit will conduct and conclude cross-examination of this witness in the first session on 06.12.2019. Hence, application is allowed subject to condition that cross-examination of Bhaurao Aswar (P.W.1) to be conducted and concluded in the first half session on 06.12.2019.

Dt. 05.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1169-
dt.5.12.2019)

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2019.12.06
17:06:48 +0530

ORDER BELOW EXH.NO.1175.
(10.12.2019)

Say is given on behalf of accused No.2, 4, 7, 8, 9 & 11. Other accused did not file any say on it. Hence, application to proceed without say of other accused persons.

Dt. 10.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002
(Order below
Exh.1175-
dt.10.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.12
12:06:35 +0530

ORDER BELOW EXH.No.1175.
(Dated 11.12.2019)

1] This is an application on behalf of prosecution to issue summons to the concern official of Nagpur District Central Co-operative Bank for production of certain Registers/documents mentioned in the application. It is submitted that these documents are necessary for the purpose of trial and are required to be referred to the concern witnesses.

2] Accused No.2, 8, 9 & 11 have opposed the application on the ground that the documents sought to be produced do not form part of the chargesheet. The complainant is already examined. The documents are not at all relevant. This is nothing but an attempt to fill up the lacuna of prosecution case.

3] Accused No.4 & 7 have opposed the application on the ground that it is vague and not tenable at the present stage.

4] No say is filed on behalf of other accused persons. Hence, as per order dated 10.12.2019, the application is proceeded without their say.

5] Heard Ld. Spl.P.P. & A.P.P. for State. Heard learned counsels for all the accused facing the present trial.

6] It seems that the documents sought to be produced are the registers pertaining to the record of meeting held by the Board of Directors and that of Management Committee during the period 1998

till 2000.

7] It is submitted on behalf of prosecution that investigation officer has recorded the statements of the then directors and officials of the said Bank under Section 161 of the Code of Criminal Procedure. These statements would disclose that, subject of purchasing Government Securities was never discussed and approved by the Board of Directors. Therefore to verify this fact, it is necessary to refer the concern registers to the witnesses.

8] Having heard both the sides and after considering the relevant legal provisions, this Court is of the considered view that application deserves to be allowed for more than one reasons stated below.

9] Section 173(5) of the Code of Criminal Procedure (hereinafter referred to as 'Code') provides that when the report in respect of a case to which Section 170 applies, the police officer shall forward to the Magistrate alongwith the report-

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

10] Section 173(7) of the Code provides that where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to

in sub-section (5).

11] Section 242(2) of the Code provides that the Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

12] Section 242(3) of the Code provides that on the date so fixed, the Magistrate shall proceed to take **all such evidence** as may be produced in support of the prosecution.

13] Section 311 of the Code provides that any Court may, at any stage of any inquiry, trial or other proceeding under the Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

14] In view of the provision of Section 242(2) and 242(3) read with Section 313 of the Code, the Court is empowered to **take all such evidence as may be produced in support of the prosecution**. These provisions do not control the power of the Court to take additional evidence, if any, sought to be produced by the prosecution in support of its case. The power of Court to '**take all such evidence**' as contemplated under Section 242(3) is not restricted only to the documents or the evidence or the statement of witnesses recorded under Section 161 of the Code which are filed alongwith the

chargesheet. The provisions of the code do not limit the operation of sub-section (3) of Section 242 of the Code by compelling the prosecution to confine itself to the evidence of only those persons whose statements have been recorded by the police or the documents filed with the chargesheet.

15] However, in such situation the prosecution is duty bound to provide the copies/ relevant extracts of the concern documents to the accused.

16] Therefore, the contentions on behalf of accused, that the documents sought to be produced can not be produced as the same are not the part of chargesheet is of no avail.

17] The documents sought to be produced appear to be relevant as regards the statement of witnesses who are alleged to have held the post of directors or officers in the relevant period. Hence, the application deserves to be allowed.

18] In the result, following order is hereby passed.

ORDER

1. Application is hereby allowed.
2. Prosecution to provide copies of relevant extracts to the accused persons.

Dt. 11.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1175-
dt.11.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.12
16:48:04 +0530

ORDER BELOW EXH.1
(Dated 12.12.2019)

Ld. Special Public Prosecutor to submit tentative list of entire witnesses intended to be examined by the prosecution and the schedule for their examination w.e.f. 30.12.2019 to 31.01.2020. This compliance shall be done by 13.12.2019. As per order passed below Exh.1174 and Exh.1190, issue witness summons to the concern witnesses as under :

Sr.No.	Name of witnesses	Date
1.	Mukund Bhikaji Pannase	20.12.2019
2.	Babanrao Bhaurao Taywade	
3.	Shyamrao Ganpat Dhawad	
1.	Smt. Ashabai Chanduji Mahajan	21.12.2019
2.	Ramesh Pandurang Gawande	

Dt. 12.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1-
dt.12.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.13
16:15:01 +0530

ORDER BELOW EXH.1
(Dated 12.12.2019)

1] It is a matter of record that charge was read over and explained to accused persons in vernacular and plea was recorded on dated 14.11.2019. Accordingly, charge was read over and explained to accused No.11 Suresh Damodar Peshkar. Charge is at Exh.1096 and the plea of accused No.11 is recorded vide Exh.1105. However, while verifying the record, it is noticed that there is clerical mistake in the charge (Exh.1096). The name of accused No.11 has remained to be typewritten in the charge. This mistake being purely clerical and typographical mistake, requires to be corrected.

2] Hence, in this respect, heard Ld. Spl. Public Prosecutor, Ld. A.P.P. and Advocate Mr. Jaltare for accused No.11. The Ld. Counsel for accused No.11 fairly submitted that it being purely a clerical mistake, he has no objection to correct the same.

3] In the result, following order is hereby passed.

ORDER

The name of accused No.11 Suresh Damodarrao Peshkar be inserted in the charge (Exh.1096) and his statement in this respect be recorded vide Exh.1105.

Dt. 12.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

**R.C.C.No.147/2002
State -Vs- Sunil Kedar & Ors**

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1(2)-
dt.12.12.2019)

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2019.12.13
16:16:52 +0530

ORDER BELOW EXH.NO.1.
(21.12.2019)

On verification of record, it is noticed that the depositions of Sukhdev Patil (P.W.4) and Natthu Awari (P.W.5) have been inadvertently given same exhibit numbers. Hence, exhibit Number of deposition of Natthu Awari (P.W.5) be corrected as 1192-(A).

Dt. 21.12.2019

(S.R.Totla)
Addl. Chief Judl. Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1 -
dt.21.12.2019)-
dt.20.12.2019)
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2019.12.22
17:38:13 +0530

ORDER BELOW EXH.No.1323.
(Dated 4th January, 2020)

1] Perused the application, say and list of witnesses (Exh.1300) intended to be examined upto 15.1.2020.

2] As per schedule already fixed, near about 35 witnesses are scheduled to be examined since 6.1.2020 till 15.1.2020. Witness summons are already issued. It is submitted on behalf of prosecution that the Special Team is deputed to execute the service of witness summons to these witnesses. All these witnesses are from Mumbai, Thane, Chennai, Kolkata, Ahmedabad, Panvel. Out of these 35 witnesses, only 5 witnesses are from Nagpur.

3] As the witness summons are already issued, the entire programme of examination of witnesses can not be rescheduled by passing the blanket order at once. The service reports of witness summons are yet to be received. Learned Spl.P.P. has also submitted that some of the witnesses might have made transport reservations to attend the Court at Nagpur.

4] Considering all these aspects, it would be appropriate to wait for the service reports of the witnesses and to decide the aspect of adjournment, if necessary, on day to day basis. Hence, the following order.

ORDER

The prayer for rescheduling the programme at once is not accepted. However, accused No.1 is at liberty to move the appropriate application for adjournment on day to day basis, if it is so advised to him.

Dt. 04.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

**R.C.C.No.147/2002
State -Vs- Sunil Kedar & Ors**

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1323)
dt.4.1.2020

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2020.01.05
16:51:25 +0530

ORDER BELOW EXH.No.1324.
(Dated 4th January, 2020)

Personal exemption is granted to accused No.1 and 4 to 7 upto 31st of January, 2020, subject to condition that accused should not dispute their identity and should conduct the cross-examination of the witness.

Dt. 04.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1324)
dt.4.1.2020

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2020.01.05
16:52:46 +0530

ORDER BELOW EXH.No.1325.
(Dated 4th January, 2020)

1] This is a letter-cum-application received to this Court by post and purported to be made by one Chandrashekhar Samarth who is witness in this case. The application is not on affidavit and there is nothing on record to believe that the same is signed by the concerned person whose name is appearing on the application. The prayer is made in the application to postpone his evidence after 20.01.2020. It also appears from the tenor of application that the witness is having knowledge that the matter is being conducted on day to day basis as per the order of Honorable High Court. In spite of the same, the witness did not appear before the Court, but forwarded such vague application from his home. It appears that he was having time to get the application typewritten, to go to the post office and to send it to the Court, but he was not having time to attend the Court and to request for adjournment by receiving the next date from Court and to execute the bond for his appearance on such adjourned date. It is therefore clear that, if really the said letter is issued by the concerned witness then the only conclusion can be drawn that he wants to take the Court for ride and is trying to interfere in the administration of justice.

2] It is orally submitted on behalf of prosecution that said witness had initially avoided to accept the service of witness summons and therefore the witness summons was executed on him in court premises with the permission of this court.

3] Considering these circumstances and the fact that the application is vague and is not supported by any reasonable ground as to why the witness did not personally attend the court and why he forwarded such application by post thereby asking the court to again use the Court machinery to serve him witness summons, rather to attend the court and to get the next date by executing a bond for his appearance on such adjourned date. Hence such application received from post is not maintainable. Accordingly, issue bailable warrant of Rs.5000/- against the witness Chandrashekhar Samarth returnable on 03.02.2020.

Dt. 04.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1325)
dt.4.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.05
16:54:13 +0530

ORDER BELOW EXH.No.1327.

It is informed orally that witness has requested to prosecution by telegraphic message that he would get the transport reservation on 5/2/2020. Hence, this witness be examined on 5/2/2020. Accordingly, allowed.

Dt. 06.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1327-
handwritten) dt.4.1.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.01.07
17:24:54 +0530

ORDER BELOW EXH.No.1328.

P. e. granted upto 13-1-2020 subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 07.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1328-
handwritten) dt.7.1.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.01.08
17:18:32 +0530

ORDER BELOW EXH.No.1346.

P. e. granted for today only subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 10.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1346)
dt.10.1.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.01.17 15:44:43
+0530

ORDER BELOW EXH.No.1363.

- 1] Perused the application and say.
- 2] Heard.
- 3] After hearing learned Spl. Public Prosecutor and learned counsels for respective accused persons, following order is hereby passed :

ORDER

If the prosecution wants to prove the contents of documents seized under the panchnamas and if the copies of concerned documents are not already provided to the accused, then the copies of such documents, of which the prosecution wants to prove the contents by examining witnesses, shall be provided to the accused persons beforehand, i.e. prior to the examination of such witnesses, if any.

Dt. 16.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below Exh.1363)
dt.16.1.2020
Digitally signed by Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.01.17 15:48:11 +0530

ORDER BELOW EXH.No.1414.

P. e. granted for today only subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 17.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1414)
dt.17.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.18
17:13:18 +0530

ORDER BELOW EXH.No.1415.

P. e. granted for today only subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 17.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1415)
dt.17.1.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.01.18
17:14:21 +0530

ORDER BELOW EXH.No.1477.

Perused the application and say. Heard learned counsels for all the accused persons facing trial and learned Spl. Public Prosecutor. It is submitted on behalf of accused Nos.4 & 7 that for the reasons mentioned in the application, cross-examination of P.W.No.18 be reserved till 27.1.2020. It is also submitted that he has no objection to examine the other witnesses, if any, present as per the already fixed schedule on 22.1.2020 to 24.1.2020. The learned counsels for other accused persons have also orally submitted that they have no objection to reserve the cross-examination of the said witness on the said condition. On behalf of accused No.1, it is submitted that learned senior counsel for accused No.1 Mr. Subodh Dharmadhikari is also available on 27.1.2020 only. Under such circumstances and for the reasons mentioned in the application, following order is hereby passed.

ORDER

Cross-examination of Mr. Sheshrao Gode (P.W.18) is reserved till 27.1.2020 on the condition that none of the accused has any objection to examine witnesses present, if any, as per already fixed schedule on 22.1.2020 to 24.1.2020 and that the cross-examination of such witnesses would be conducted on behalf of all the accused on the scheduled date only.

Dt. 22.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1477)
dt.22.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.23
17:29:41 +0530

ORDER BELOW EXH.No.1438.

- 1] Perused the application and say.
- 2] Heard Ld. Spl. Public Prosecutor and learned counsels for all the respective accused.
- 3] Four persons namely Mr. S.K. Mishra, Smt. Sharma, Shri. Singh and Shri. Surin are cited as prosecution witnesses in the chargesheet. All these witnesses were the employees of Reserve Bank of India at the time of investigation of this case. The witness summons were issued to all of them. However, it is reported that Mr. S.K. Mishra is no more and other three witnesses have been retired from service. Therefore, prosecution wants to examine concerned employee presently working in the office of R.B.I. who can depose as per official record of R.B.I.
- 4] Application is opposed on the ground that the retired employees of R.B.I. can be examined and there is no need to examine any other witness as prayed for. It is also submitted that there is no material on record to demonstrate that the presence of retired employees of R.B.I. can not be secured.
- 5] Be that as it may, as per prosecution, all the four witnesses cited in the chargesheet are on the aspect of record of the office of R.B.I. Therefore, in the event of the retirement or death of any of such witnesses, the concerned official presently working in such government office can be called as witness in relation to the official record maintained by R.B.I. In the result, there appears no legal hurdle to allow the application. Hence, the following order.

ORDER

Issue witness summons as prayed for returnable on 30/01/2020.

Dt. 23.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1438)
dt.23.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.24
16:54:08 +0530

ORDER BELOW EXH.No.1486.

P. e. granted for today only subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 23.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1486)
dt.23.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.24
16:56:16 +0530

ORDER BELOW EXH.No.1487.

P. e. granted for two days i.e. 23.01.2020 & 24.01.2020 subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 23.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1487)
dt.23.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.24
16:56:53 +0530

ORDER BELOW EXH.No.1429.

P. e. granted for today only subject to condition that the cross-exam should be conducted on his behalf without challenging his identity.

Dt. 18.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1487)
dt.23.1.2020
Digitally signed by John
Doe
Location: Nagpur
Date: 2020.01.30
13:11:27 +0530

ORDER BELOW EXH.No.1490.

P. e. granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on behalf of accused without challenging his identity.

Dt. 24.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1490)
dt.24.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.30
13:17:55 +0530

ORDER BELOW EXH.No.1524.

P. e. granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 28.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1524)
dt.28.1.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.01.30
13:21:33 +0530

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, NAGPUR

R.C.C. No. 147/2002

State of Maharashtra

-Vs-

Sunil Kedar and others.

Exh. No. 1557

Application for issuing summons to witnesses

The prosecution prays for issuing summons to the following witness :-

Sr. No	NAME	Date	ADDRESS
1	Raju Shyamraoji Katole	5-Feb-20	State Investigation Department, Nagpur
2	PSI Yeshwant Kuthe	11-Feb-20	P.S. Ganeshpeth
3	Smt. Shashi Mahendra Agrawal	11-Feb-20	2 J, Judges' Court Road, Mominpura, Kolkata, West Bengal.
4	Jaykumar Rasiklal Mehta	12-Feb-20	Hariom App. Society C-103, Anandnagar Garden, Vasai, Thane.
5	Ketan Rameshchandra Meskriya	12-Feb-20	191/5313 Gitanjali A. Bhatnagar, Ghatkoper East Mumbai.
6	Rajgopal Jagannathan	13-Feb-20	Flat No. 131, Beach Tower P. Balu Marg, Prabhadevi, Mumbai
7	Jagat Jayantkumar Parikh	13-Feb-20	401, Panchdani Appts. Panchvati 2nd Lane, Ambawali, Ahmdabad.
8	Ashok Shrihari Madavi	14-Feb-20	Telengkhedhi, behind Hanuman Temple, Nagpur
9	Smt. Meena Prakash Poddar	14-Feb-20	P-11, Devendra Datta Len, Kolkata
10	Smt. Harsha Nilesh Seth	15-Feb-20	B/16 Garibdas Society, 5 NS Road G.V.P.D. Scheme Vileparle West Mumbai-49
11	Lenin Mario D'souza	15-Feb-20	B-103 Kolombo Buld. Fist Floor (EC-1) Aver Shine City, Washi East Thane
12	Ms. Jenifer Edward Oliver	15-Feb-20	Plto No 105 Anmol Building Secter No 16 Coper Khairen Navi Mumbai
13	Iril Anthony D'souza	15-Feb-20	Jasmin Park Co. Opp. Society G-3 Flat 5.2 Ground Floor, Dayer Amera Nagar, Naigaon, Dist Thane
14	Sudhakar Govindrao Borkar	17-Feb-20	Plot No 14 , Durga Nagar behind post office, Manewada Road, Nagpur
15	Jinesh Suryakant Vanjara	17-Feb-20	67, Jatindas Road, Third Floor, nearby Trianguler park, Kolkata
16	Parimal Rasiklal Shaha	17-Feb-20	A-20, Bakul Lallanbhai Park, Andheri West, Mumbai
17	Manoj (Maik) Ambalal Shaha	18-Feb-20	3, Bellari Road, R.M.V.X. Bangalore 560080
18	Milind Digamber Ghormade	18-Feb-20	Ghormade Bhavan, Telipura, Near House of More, PS Sitabuldi, Nagpur
19	Ketan Choukase	18-Feb-20	Y.C. Dalal & Associates, 14-16, Kantateres Dr. Wilson Street, V.P. Road, Mumbai - 4

20	Abhijit Renge	20-Feb-20	22. C.B. Road, Ramdaspath, Nagpur
21	N.N. Dhole	20-Feb-20	Branch Manager, Janata Sahakari Bank, Fort, Mumbai
22	Labade	20-Feb-20	State Investigation Department, Old Custom House, Mumbai
23	Y. B. Vajpeyi	24-Feb-20	State Investigation Department, Mumbai
24	Krushna Vitthalrao Sawde	24-Feb-20	State Investigation Department, Old Sachivalay, Civil Lines, Nagpur
25	Khemraj Kukde	24-Feb-20	State Investigation Department, Bharari Pathak, Nagpur
26	Babanrao Porate	25-Feb-20	State Investigation Department, Bharari Pathak, Nagpur
27	Deepak Deshpande	25-Feb-20	State Investigation Department, Old Sachivalay, Civil Lines, Nagpur
28	Kishor Bele	26-Feb-20	State Investigation Department, Nagpur

Hence this application

Nagpur
Dt.:- 24/01/2020

Jyoti Vajani
(Jyoti Vajani)
Spl. Public Prosecutor,
Nagpur

ORDER

Issue summons as prayed for.

Dt. 29.01.2020

SUBID
29/1/20
(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur

ORDER BELOW EXH.No.1555.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 29.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1555) dt.29.1.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.01.30 13:24:09
+0530

ORDER BELOW EXH.No.1556.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 29.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1556) dt.29.1.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.01.30 13:24:57
+0530

ORDER BELOW EXH.No.1588.

- 1] Perused the application and say.
- 2] Heard Ld. Counsel for accused persons and Ld. Spl.P.P. for State.
- 3] It is submitted on behalf of accused persons that the evidence of three witnesses namely Smt. Sandra Rodrigues, Mr. S.S. Deshpande and Mr. V.V. Ranjangaonkar is lengthy and the Ld. Senior Counsel Mr. Subodh Dharmadhikari is not available for their respective cross-examinations on today and tomorrow. Considering the said reason, following order is hereby passed for rescheduling the programme after confirming the dates from the Ld. Counsels for accused No.1, 2, 4 to 9 and 11 and subject to condition that, the applicants/ accused persons shall jointly and severally pay Bhatta of Rs.3000/- each to the above three witnesses and in the meantime, conduct the cross-examination of other witnesses as per schedule.
- 4] Ld. Counsels for accused persons submit that they would pay the *Bhatta* by hand on the next date. The oral request made on behalf of accused persons for payment of *Bhatta* as such is allowed.
- 5] Both parties have consented to record examination-in-chief of Mr. Ranjangaonkar on 31-01-2020.
- 6] Hence, the programme of examination of witnesses is rescheduled as under. Witness summons be issued accordingly.

Schedule of the examination of witnesses -

SR. NO.	NAME	ADDRESS	DATE
1.	Shri. Rajesh Shyamrao Kathode	CID, Nagpur	04/02/2020
2.	Shri. Ashok Shrihari Madavi	Telankhedi, behind Hanuman Temple, Nagpur	
3.	Shri. Vinayk Humpy Halliker	C-508 Sunglori Raheta Vihar Pawai Mumbai 72	
4.	Shri. Milind Digamber Ghormode	Ghormade Bhavan, Telipura, Near House of More, PS Sitabuldi, Nagpur	05/02/2020
5.	Shri. Rajgopal Jagannathan	Flat No. 131, Beach Tower P. Balu Marg, Prabhadevi, Mumbai	
6.	Shri. Vikrant Kannal	2 Latha Kunj, 9 Sarathanbai Road Gokul Colony, T- Nagar Chennai	
7.	Shri. Ganesh Mahadevrao Wadwalkar	F-6, Sevalal Nagar, Nalasopara, Closer Road. Ta. Wasai Dist Thane	10/02/2020
8.	Shri. Akhilesh Gunwant Shaha	16, Vasupooja Krupa Society, Navrangpura, Ahmadabad	
9.	Shri. Sudhakar Govindrao Borkar	Plot No 14 , Durga Nagar, behind post office, Manewada Road, Nagpur	
10.	P. I. Yashwant Kuthe	Police Station Ganeshpeth, Nagpur	11/02/2020
11.	Smt. Shashi Mahendra Agrawal	2 J, Judges Court Road, Mominpura, Kolkata, West Bengal	
12.	Shri. Jaykumar Rasiklal Mehta	Hariom App. Society C-103, Anandnagar Garden, Wasai, Thane	
13.	Shri. Jagat Jayantkumar Parikh	Hariom App. Society C-103 Anandnagar, garden Wasai, Thane	12/02/2020
14.	Shri. Lenin Mario Disuja	B-103, Colombo Buld., 1 st Floor, (EC-1) Aver Shine City, Washi, East Thane	
15.	Ku. Jenifar Adverd Aalivor	Plot No 105 Anmol Building Sector No. 16, Koper Khairan Navi Mumbai	
16.	Shri. Irel Anthony D'souza	Jasmin Park Co. Opp. Society, G-3, Flat 5/2, Ground Floor, Dayer Amera Nagar Naigaon, Dist Thane	13/02/2020
17.	Smt. Meena Prakash Poddar	P-11 Devendra Datta Len, Kolkata	
18.	Shri. Jinesh Suryakant Vanajara	67, Jatindas Road, Third Floor, nearby Tranguler Park, Kolkata	
19.	Shri. Parimal Rasiklal Shaha	A-20 Bakul Lallanbhai park Andheri West, Mumbai	14/02/2020
20.	Smt. Harsha Nilesh Seth	B/16 Garibdas Society , 5 NS Road G.V.P.D. Scheme Vileparle West Mumbai-49	
21.	Smt. Sandra Rodrigues	AGM RBI Mumbai	15/02/2020
22.	Shri. S.S. Deshpande	Janta Sahkakri Bank Mumbai	17/02/2020
23.	Shri. Manoj (Maik) Ambalal Shaha	3 Bellari Road, R.M.V.X. Benglore 560080	18/02/2020

24.	Shri. Ketan Choukase	Y.C. Dalal & Associate 14-16, Kantateres Dr. Vilsanstreet	
25.	Shri.Ketan Rameshchandra Meskriya	191/5313 Gitanjali A. Pathnagar, Ghatkoper East Mumbai	24/02/2020
26.	Shri. Golkha C. Nath	Manager, NSE WDM National Stock Exchange of India Ltd., Regd. Office - Exchange Plaza, Bandra – Kurla Complex, Bandra East Mumbai, Pin - 400051	
27.	Shri. V.V. Ranjangaokar	Pune	25/02/2020
28.	Smt. Anita Kenkare	Earnest House, 194 Nariman Point Mumbai Pin 400021	27/02/2020
29.	Shri. Parag Jain	Earnest House, 194 Nariman Point Mumbai Pin 400021	
30.	Shri. Shivosingh Sadhusingh Bighot	Officer Gr. 1 Maharashtra State Co -Op. Bank Fort Mumbai	
31.	Shri. Anil Pant	Dhanwate Chember, Nagpur	28/02/2020
32.	Shri. Vinod Gunderao Deshmukh	NABARD Pune R/o E 8 Maitri Bag Kothrud Pune	
33.	Shri.Laxmidhar Krushnachandra Das	Laxminarayanpur, Sasan Nagapur, Puri, Orisa Pin 752110	
34.	Shri. Subba K. Rao	ICICI Bank Nariman Point Mumbai	03/03/2020
35.	Shri. T. Kanan	Flat No.B/4/502, Silver Oak Appt. Pune/ Flat No. 2, Sagartarang Bandra Reclamation, Bandra west Mumbai, Pin - 4000050	
36.	Smt. V. Shekhar	H 15 Palm Acres Co-Op Housing Society, Gavanpada, Mulund East, Mumbai, Pin 4000081	
37.	Manager IndusInd Bank	IndusInd Bank, Nariman Point, Mumbai	
38.	Shri. S.Ramakanta	Registrar of Company Pune, PMT , Commercial Building, 3 rd Floor, Deccan Gymkhana, Pune 4	04/03/2020
39.	Shri. N.N. Dhole	Branch Manager, Janata Sahakari Bank, Fort, Mumbai	
40.	Shri. Damodhar Sohanalal Baldua	A-1/302 Vedant Vartak Nagar Pokharan Road No 1 Thane West Pin 400606	
41.	Shri. Labde, ACP	I.O. CID Mumbai	
42.	Shri. K.V. Sawade	I.O. CID Mumbai	05/03/2020
43.	Shri.Khemraj Kukde	I.O. CID Mumbai	
44.	Shri. Y. B. Vajpeyi	Crime Investigation Department, Mumbai	
45.	Shri. Babanrao Porate	Crime Investigation Department, Bhrari Pathak, Nagpur	06/03/2020
46.	Shri. Deepak Deshpande	Crime Investigation Department, Old Sachivalay, Civil Lines , Nagpur	
47.	Shri. B.V. Phansalkar	S.P. CID (M.S.), Nagpur	

48.	Shri. Kishor Bele	Crime Investigation Department, Nagpur	07/03/2020
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Dt. 30.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1588) dt.30.1.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.04 16:48:11
+0530

ORDER BELOW EXH.No.1589.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 31.01.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1589)
dt.31.1.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.02.04
16:48:54 +0530

ORDER BELOW EXH.No.1.

The witness Mr. V.V.Ranjangaonkar has submitted that the amount of Rs.3000/- towards *bhatta* as directed by the court vide order passed below Exh.1588 is inadequate. The ld. Counsel for accused No.1 has fairly submitted that there is no issue in respect of payment of *bhatta* and he is ready to pay the enhanced witness *bhatta*. Hence after hearing the witness and ld. Counsel for accused No.1, the following order is hereby passed.

ORDER

This witness Mr. V.V.Ranjangaonkar be paid *bhatta* of Rs.4200/- instead of Rs.3000/- as directed vide order dated 30.1.2020 passed below Exh.1588.

Dt. 01.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1) dt.1.2.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.02.04
16:49:38 +0530

ORDER BELOW EXH.No.1594-A.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 01.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1594-A)
dt.1.2.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.02.04
16:50:18 +0530

ORDER BELOW EXH.No.1594-B.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 01.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1594-B)
dt.1.2.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.02.04
16:50:45 +0530

ORDER BELOW EXH.No.1732-A.

Personal exemption granted till 15/02/2020 subject to condition that the cross-examination of prosecution witnesses shall be conducted without challenging the identification of accused.

Dt. 03.02.2020

(S.R.Totla)
Additional Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1732-A)
dt.3.2.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.02.04
16:51:39 +0530

ORDER BELOW EXH.No.1732-B.

Personal exemption granted till 15/02/2020 subject to condition that the cross-examination of prosecution witnesses shall be conducted without challenging the identification of accused.

Dt. 03.02.2020

(S.R.Totla)
Additional Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1732-B)
dt.3.2.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.02.04
16:52:00 +0530

ORDER BELOW EXH.No.1745.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 05.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1745)
dt.5.2.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.02.06
17:01:22 +0530

ORDER BELOW EXH.No.1746.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 05.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1746) dt.5.2.2020

Digitally signed by Shekhar
Ramnathji Totla

Location: Nagpur
Date: 2020.02.06 17:02:03
+0530

In the Court of A.C.J.M. Nagpur

R.C.C. No 147/02

Eth. 1747

State

Vs.

Sunit Kedar & others.

Application for permission to examine witnesses

Rajesh Katole listed for d. 2.2.20

The prosecution begs to submit as under:-

1. That the above matter is fixed for evidence today.
2. That witness Rajesh Katole who was summoned for d. 2.2.20 could not attend the court as he was out of station & requested for adjournment & therefore he was called today. As witness has attended the court today, Prosecution may be permitted to examine the witness in the interest of justice.

Prayer: Prayed accordingly.

Nagpur
dy 15.2.20

Swapani
Spl. P.P.

0
Allowed
ST/200
5/2/20.

ORDER BELOW EXH.No.1752.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 10.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1752) dt.10.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.12 16:36:46
+0530

ORDER BELOW EXH.No.1762.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 11.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1762) dt.11.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.12 16:38:37
+0530

20/2

From: -

Est. 1765

Jaykumar Rasiklal mehta

Present Correspondence Address: -

Flat No. 204, Dhuzi Villa

Meena Nagar, 60 FT Road, Lane NO. 6

Diwanman, District - Palghar

Vasai Road - West - 401202

Maharashtra

Mobile No. 9975229850

Date. 07.02.2020

To,

The main magistrate Sir,

Joint Civil Court, Nagpur

Room No. 106, 1st Floor

Nagpur - 440001

Subject: Request for next hearing date as witness in case of State Vs. Sunil & others.

Respected Sir/Madam

with reference to above mentioned subject,

I, the undersigned have received summons to be present on 11.02.2020. However I would be unable

to be present on 11.02.2020, since I will be travelling outstation from 08.02.2020 to 12.02.2020. Therefore, I would

request you to grant me next hearing date.

Request to do the needful and oblige me.

For your reference I am attaching copy of summons.

Thanking you.

Yours faithfully,

Jaykumar R. Mehta

(JAYKUMAR R. MEHTA)

This witness has
examined on 28 -02-20
[Signature]
11/2/20

ORDER BELOW EXH.No.1767.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 12.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1767)
dt.12.2.2020

Digitally signed by
Shekhar Ramnathji Totla

Location: Nagpur
Date: 2020.02.15
11:01:44 +0530

ORDER BELOW EXH.No.1776.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 13.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1776) dt.13.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.15 11:02:22
+0530

ORDER BELOW EXH.No.1782.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 14.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1782) dt.14.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.15 15:38:27
+0530

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, NAGPUR**

R.C.C. No. 147/2002

State of Maharashtra
-Vs-
Sunil Kedar and others.

Application for issuing Summons

The Prosecution submits as under :

1) That in the above matter Summons was issued to Smt. Harsha Nilesh Seth
And it is reported that the witness has gone to Jaipur for function. It is that for
necessary to issue summons to the witness for the date 28th February 2020.

Under the above circumstances the summons be reissued in the interest of
Justice.

Prayer : Prayed accordingly.

Nagpur

Dt.:- 14/02/2020 JS
15/02/2020

(Jyoti Vajani)
Spl. Public Prosecutor,
Nagpur

Leena
(Leena Gajbhiye)
Asst. Public Prosecutor,
Nagpur

o
Allowed
SRW
15/2/20

ORDER BELOW EXH.No.1792.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 17.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1792) dt.17.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.18 15:58:03
+0530

ORDER BELOW EXH.No.1808.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 18.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1808) dt.18.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.19 13:55:06
+0530

ORDER BELOW EXH.No.1807.

Personal exemption granted upto 5.3.2020, subject to condition that the cross-examination of prosecution witnesses should be conducted on their behalf without challenging their identity.

Dt. 18.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1807) dt.18.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.19 13:54:34
+0530

ORDER BELOW EXH.No.1806.

Personal exemption granted upto 29.2.2020, subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 18.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1806) dt.18.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.19 13:53:59
+0530

Eth. 18/10

In the Court of ACJM, Nagpur

RCC 147/2002

FF. 18/2/2020

State vs Smil & others.

The prosecution submits as under;

1) That the case is fixed for evidence today and the witness P1 Yashwant Kuthe has been served with the summons. However, the witness is not present today for adducing evidence

2) It is, just & necessary to Issue B.W. to this witness, to secure his presence

3) PRAYER :- It is, therefore, prayed that BW may kindly be issued to witness Shri. Yashwant Kuthe, to secure his presence. The prosecution gives up the witness Manik Shah.

Issue BW of Rs. 5000/- against the concerned witness -
18/2/20.

Nagpur

18-2-2020.

Deenab
APP.

The prosecution gives up the other witness Manoj @ Maulik Shah.

Deenab
APP

ORDER BELOW EXH.No.1809.

1] This is an application on behalf of prosecution to issue witness summons to M/s Y.C.Dalal & Associates, Chartered Accountant, Mumbai. It is contended that government has appointed said firm for the audit of the records pertaining to the cases registered against Home Trade Limited. It appears that said firm has dedicated the work to its Chartered Accountant Mr. Ketan Choukasey. However, the summons issued to said Mr. Ketan Choukasey returned with the report that he was not traceable. Under such circumstances, it is prayed that the firm which was allotted with the concern audit is required to be examined through its concern person.

2] The application is strongly opposed on behalf of all the accused on the ground that the alleged audit report does not bear signature of any other Chartered Accountant of the concern firm. The person who allegedly signed the audit report is not traceable. Hence, no fruitful purpose can be served by issuing witness summons as prayed for. There is no provision either in the Code of Criminal Procedure or Evidence Act to call such irrelevant witness at this stage.

3] Heard Ld. Special Public Prosecutor for State and Ld. Counsels for the respective accused persons. Section 242(2) of the Cr.P.C. provides that, the Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing. Sub-section (3) of Section 242 of the Code provides that, on the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution. These provisions read with Section 313 & 91 of Cr.P.C. enable the court to take all such evidence sought to be produced by prosecution, either ocular or documentary.

4] Section 32 of the Evidence Act provides the rule of evidence as regards the relevancy of the statements, written or verbal, of relevant facts made by a person who can not be found. In the case at hand, nothing contrary has been brought on record to demonstrate that the witness Mr. Ketan Choukasey was traceable. Likewise, Section 34 of the Evidence Act provides that the entries in Books of Accounts, regularly kept in the course of business, are relevant whenever they are referred to a matter into which the Court has to inquire.

5] Moreover, the letter in copy of order annexed with the chargesheet at about page No.483 & 484 prima facie disclose that the work of alleged audit was provided to M/s Dalal & Associates, Chartered Accountant, Mumbai.

6] In view of above circumstances and considering the above provisions of law, application deserves to be allowed.

7] In the result, following order is passed.

ORDER

1. Application is allowed.
2. Issue witness summons as prayed for returnable on 04-03-2020.

Dt. 24.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



ORDER BELOW EXH.No.1811.

Personal exemption granted from 24.2.2020 to 29.2.2020, subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 24.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1811) dt.24.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.25 16:23:22
+0530

ORDER BELOW EXH.No.1821.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 27.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1821) dt.27.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.29 11:02:33
+0530

ORDER BELOW EXH.No.1824.

1] Perused the application, say and the copies of orders filed vide list Exh.1825.

2] Heard Ld. Counsels for accused Nos.4, 7 & 8 respectively. Heard Ld. Spl. Public Prosecutor.

3] By way of this application, the applicants/ accused have prayed to keep the matter in abeyance and to reschedule the programme after 9th of March, 2020. It is submitted that P.I.L. No.58/2019 Bhaurao Kamdi Vs. Sunil Kedar & Ors has been transferred to the Principal Bench of our Hon'ble High Court at Mumbai. It is further submitted that the whole trial conducted by this Court will vitiate if the applications preferred by accused before the Hon'ble High Court, Principal Bench at Mumbai are allowed by holding that the trial was conducted without jurisdiction. It is further submitted that accused are ready to pay the requisite *bhatta* to the witnesses whose examination is scheduled upto 9th of March, 2020. Ld. Counsels for accused has relied upon the judgment of our Hon'ble High Court in the case of '*Kishor s/o Bhikansingh Rajput Vs. Preeti W/o Kishor Rajput reported at 2007(2) Mh.L.J. 481*' to contend that the trial court should stay its hand if any of its order is challenged in appeal before the superior court. For similar such contention, he has further relied upon case of '*Kranti Mohan Guruprasad Mebra Vs. Fatehchand Vasuram Behal reported at 1982 AIR(Bom)263*'.

4] The prosecution has objected the application on the ground that the trial is being conducted on day to day basis as per the directions of the Hon'ble High Court issued in P.I.L. No.58/2019. There is no stay by any of the Hon'ble Superior Courts to keep the matter in abeyance. The programme

can be rescheduled only for the reasons mentioned in the order of Hon'ble High Court passed in P.I.L. No.58/2019 and no such grounds are made out for rescheduling the programme of examination of witnesses.

5] It is pertinent to note that the trial is being conducted on day to day basis as per the order dated 7.11.2019 of our Hon'ble High Court passed in P.I.L. No.58/2019 and the number of witnesses have been already examined. The programme of examination of remaining witnesses is scheduled upto 7th of March, 2020 and summons are already issued to them. As per the scheduled programme, two witnesses from Mumbai are present today before the Court. Admittedly, there is no stay to this trial by any of the Hon'ble Superior Courts. As the trial is being conducted since 11.11.2019, there was sufficient time available to the accused to challenge the trial which is being conducted before this court and to get appropriate order, if any. Thus, the accused were having reasonable time for the alleged relief agitated in the present application. Reliefs sought for the present application appears to be directly contrary to the direction of Hon'ble High Court issued vide order dated 7.11.2019 in P.I.L. No.58/2019. In the circumstance, ld. Counsels for accused can not take the aid of aforesaid citations of '*Kishor Rajput Vs. Preeti Rajput*' and '*Kranti Mohan Vs. Fatehchand*' to put forth their contentions in the present set of facts. Thus, application being devoid of any merits, deserves to be rejected. In the result, following order is hereby passed.

ORDER

Application stands rejected.

Dt. 27.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1824) dt.27.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.29 11:03:17
+0530

ORDER BELOW EXH.No.1826.

1] This is an application on behalf of accused No.8 to stay the matter for two weeks on the ground that he wants to challenge the order passed by this Court to the application Exh.1824. It is submitted that the accused has right to appeal and therefore, a reasonable period is required to be granted to challenge the said order. Ld. Counsel for accused No.8 has further submitted that he is ready to pay the bhatta of all the witnesses who are scheduled to be examined during the said period. It is further submitted that Hon'ble High Court has granted liberty to this court for granting a short adjournment vide its order dated 28.11.2019 passed in a application arising out of P.I.L.No.58/2019.

2] Application is opposed on the ground that the trial has been conducted on day to day basis as per the order of Hon'ble High Court and keeping the proceeding in abeyance may amount to contempt of court. There is no stay by any of the Hon'ble Appellate Court to the proceeding of this case. The programme is scheduled with due notice to the defence. Majority of the witnesses which are scheduled to be examined during this period are from out stations. Hence prayer is that to reject the application being meritless.

3] It is pertinent to note that by way of application (Exh.1824), the prayer was made to keep the matter in abeyance. After hearing both the sides, said application came to be rejected by holding that same was devoid of any merits and for other reasons mentioned therein. Again, putting the stay on trial would result in hampering of the trial, when it is already held by this Court while deciding application (Exh.1824) that the prayer itself was

devoid of any merits. The witnesses are from out station and this court has already observed while passing order below application (Exh.1824) that accused had sufficient time since beginning of this trial to approach the superior court for appropriate reliefs which were claimed in the said application. Under the circumstances, the prayer in the present application to put the matter at stay for two weeks can not be accepted. The programme can be rescheduled only for the reasons mentioned in the order of Hon'ble High Court passed in P.I.L. No.58/2019 and no such grounds are made out for rescheduling the programme of examination of witnesses in the present application. Hence, the application stands rejected.

Dt. 27.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1826) dt.27.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.02.29 11:03:50
+0530

ORDER BELOW EXH.No.1735.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 04.02.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1842.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 29.02.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1842) dt.29.2.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.03 17:17:54
+0530

ORDER BELOW EXH.No.1845.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 02.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1845) dt.2.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.03 17:18:45
+0530

ORDER BELOW EXH.No.1847.

Personal exemption granted upto 15th of March, 2020 subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 02.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1847) dt.2.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.03 17:19:25
+0530

ORDER BELOW EXH.No.1848.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 03.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1848) dt.3.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.04 17:32:31
+0530

ORDER BELOW EXH.No.1819.

1] This application is moved on behalf of prosecution for production of special report alleged to have been received from NABARD pertaining to the irregularities and illegalities committed by the concerns in relation to the transactions of Government Securities. It is submitted on behalf of prosecution that the record of this case is bulky and 'inadvertantly' investigation officer did not place the same on record, though the documents were lying with C.I.D.

2] The application is opposed vide reply Exh.1839 by accused No.4 & 7. Same reply has been adopted by other accused alongwith some additional grounds by endorsing the same on overleaf of the application itself. It is contended that the report sought to be produced is merely a photocopy. There is no appropriate compliance of the provisions of Section 294 of the Code of Criminal Procedure. The application is moved at the fag end of proceeding and after examining the material witnesses. Therefore, taking such documents on record would result into brushing aside of the entire cross-examination. The application is not fit to be considered one under Section 173(8) of the Code of Criminal Procedure. On all these grounds, application deserves to be rejected.

3] Heard, ld. Spl. Public Prosecutor for State and ld. Counsels for the respective accused persons.

4] Ld. Spl. Public Prosecutor has submitted that the documents which do not form the part of chargesheet can also be received in evidence for prosecution, after commencement of trial. Section 242(3) of the Code of Criminal Procedure mandates the court to take all such evidence as may be

produced in support of the prosecution. In support, reliance is placed on the ratio laid down in the case of *B.L.Udaykumar and others Vs. State of Karnataka* reported at **2018 CRI. L. J.3925**. In that case, the documents sought to be produced were produced before the Hon'ble Karnataka High Court and also before the Court of Senior Civil Judge and CJM, Kodagu and the photocopies were annexed with the chargesheet.

5] Ld. Special Public Prosecutor has further relied upon the judgment of our Hon'ble High Court in the case of *Niwas Keshav Raut Vs. The State of Maharashtra* reported at **2016 ALL MR (Cri)3742**. In the said case, with reference to Section 294 of Cr.P.C., our Hon'ble High Court has held that said provision nowhere places any embargo upon the prosecution or accused to file a document at a stage subsequent to filing of the chargesheet. In the said case, the document sought to be produced was a chit in handwriting of deceased alleged to have been discovered by the witness and by that time, his cross-examination did not begin. Thus, the document was sought to be produced prior to the cross-examination of the concern witness.

6] Ld. Special Public Prosecutor has further relied on the case of *Central Bureau of Investigation Vs. R.S. Pal & Anr.* reported at **2002 ALL MR (CRI) (S.C.)1396**. In the said case, it is held by the Hon'ble Apex Court that if some mistake is committed in not producing the relevant document at the time of submitting the report or chargesheet, it is always open to the investigating officer to produce the same with the permission of the court. In that case, some additional documents were sought to be produced at the preliminary stage of prosecution wherein the application for discharge of accused was pending for hearing.

7] On the other hand, it is submitted on behalf of accused persons that in the case in hand, material witnesses (42 in number) are already examined and cross-examined. The evidence side of prosecution is at verge of completion. The copies of documents sought to be produced were not provided to accused beforehand and therefore, there is every possibility of brushing aside the defence raised by way of cross-examination of the prosecution witnesses. In the circumstances, the documents which are merely photocopies, can not be produced at such belated stage. Reliance is placed upon the judgment of Hon'ble Andhra Pradesh High Court in the case of *Thota Ramalingeswara Rao Vs. State of Andhra Pradesh* reported at *1958 CrLJ 1286*.

8] Ld. counsels for the defence have also relied upon the judgment of Hon'ble Apex Court in the case of '*Amrtubhai Shambhulal Patel Vs. Sumanbhai Kantibhai Patel & Ors decided on 2.2.2017 in Criminal Appeal No.1171 of 2016 (Arising out of S.L.P.(CRIMINAL) No.3338 of 2015), bench Hon'ble Justice Dipak Mishra and Hon'ble Justice Amitava Roy*'. In the said case, after recording statement under Section 313 of Cr.P.C., an application under Section 173(8) of the Code of Criminal Procedure was moved by the informant to call for a report from the Forensic Science Laboratory as regards one particular page of the register of the Notary (public), which according to informant was of debatable authenticity, as it appeared to have been affixed/pasted with another page thereon. Said application was allowed by the Magistrate. However, Hon'ble High Court has set aside the order on the ground that provisions of Section 173(8) of the Code can only be exhausted at the instance of investigation officer and not at the instance of informant. It was also observed that having regard to the sequence of evidence and the delay on the part of the informant to make such prayer at the closing stage of trial, the application was not

entertainable. The Hon'ble Apex Court has upheld the view of Hon'ble High Court thereby observing that provisions of Section 173(8) of the Code can be exhausted if the investigating agency may for good reasons inform the trial court and seek permission to conduct further investigation, the court *suo moto* can not embark upon such a stage or take that initiative on the request or prayer made by the complainant/ informant. For similar such contention, the Id. Defence counsels have further relied upon the ratio laid down in '*B L Udaykumar; T R Murugesh; Ashok Kumar Vs. State of Karnataka by Police of Kushalnagar Police Station reported at 2018 CrLJ 3925*' and '*R N Kakkar Vs. hanif Gafoor Naviwala reported at 1995 CrLJ 365*'.

9] In the light of above submissions, it is necessary to evaluate facts of the present application. The application pertains to the prayer for production of documents, i.e. the Special Report of NABARD as regards the irregularities committed while making transactions pertaining to Government Securities. Application is moved after examining about 40 material witnesses. The alleged report is in the form of photocopy. The only reason for non-production of these documents alongwith chargesheet is cited as the 'inadvertance' of the investigation officer. Said reason appears to be vague and can not be accepted. Under such circumstances and considering the law laid down in aforesaid citations, it is respectfully submitted that the application does not provide the satisfactory reasons for non-production of documents at the appropriate stage. That apart, document is merely in the form of photocopy. Hence, there appears no good reason for allowing the application. It can not be allowed merely because the court is empowered to permit the production of documents after filing of chargesheet. It can only be done if some good reasons are shown for their production at earlier stage and if it is shown that even after due diligence, the I.O. was not able to produce the same alongwith chargesheet

or that the documents were beyond his reach at the time of filing of chargesheet. Hence, it is respectfully submitted that the ld. Spl. Public Prosecutor can not take the aid of the citations relied upon by her to put forth her contentions in the present set of facts.

10] In the result, following order is hereby passed.

ORDER

Application stands rejected.

Dt. 03.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1819) dt.3.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.04 17:32:04
+0530

ORDER BELOW EXH.No.1791.

1] This application is moved on behalf of prosecution for production of certain documents namely the photocopies of Government Securities. It is contended that the Home Trade Company has supplied these copies to NDCC Bank. It was revealed during the investigation that these Government Securities were not purchased for NDCC. This fact is confirmed by Reserve Bank of India. Therefore, it is necessary to bring these documents on record. It is further submitted that the documents have been brought by the witness Mrs. Sandra Rodrigues (P.W.No.25) who happens to be the officer of Reserve Bank of India.

2] The application is opposed vide reply Exh.1827 by accused No.4 & 7. Same reply has been adopted by other accused alongwith some additional grounds by endorsing the same on overleaf of the application itself. It is contended that the report sought to be produced is merely a photocopy. There is no appropriate compliance of the provisions of Section 294 of the Code of Criminal Procedure. The application is moved at the fag end of proceeding and after examining the material witnesses. Therefore, taking such documents on record would result into brushing aside of the entire cross-examination. The application is not fit to be considered one under Section 173(8) of the Code of Criminal Procedure. On all these grounds, application deserves to be rejected.

3] Heard, ld. Spl. Public Prosecutor for State and ld. Counsels for the respective accused persons.

4] Ld. Spl. Public Prosecutor has submitted that the documents which do not form the part of chargesheet can also be received in evidence

for prosecution, after commencement of trial. Section 242(3) of the Code of Criminal Procedure mandates the court to take all such evidence as may be produced in support of the prosecution. In support, reliance is placed on the ratio laid down in the case of *B.L.Udaykumar and others Vs. State of Karnataka* reported at **2018 CRI. L. J.3925**. In that case, the documents sought to be produced were produced before the Hon'ble Karnataka High Court and also before the Court of Senior Civil Judge and CJM, Kodagu and the photocopies were annexed with the chargesheet.

5] Ld. Special Public Prosecutor has further relied upon the judgment of our Hon'ble High Court in the case of *Niwas Keshav Raut Vs. The State of Maharashtra* reported at **2016 ALL MR (Cri)3742**. In the said case, with reference to Section 294 of Cr.P.C., our Hon'ble High Court has held that said provision nowhere places any embargo upon the prosecution or accused to file a document at a stage subsequent to filing of the chargesheet. In the said case, the document sought to be produced was a chit in handwriting of deceased alleged to have been discovered by the witness and by that time, his cross-examination did not begin. Thus, the document was sought to be produced prior to the cross-examination of the concern witness.

6] Ld. Special Public Prosecutor has further relied on the case of *Central Bureau of Investigation Vs. R.S. Pal & Anr.* reported at **2002 ALL MR (CRI) (S.C.)1396**. In the said case, it is held by the Hon'ble Apex Court that if some mistake is committed in not producing the relevant document at the time of submitting the report or chargesheet, it is always open to the investigating officer to produce the same with the permission of the court. In that case, some additional documents were sought to be produced at the preliminary stage of prosecution wherein the application for discharge of

accused was pending for hearing.

7] On the other hand, it is submitted on behalf of accused persons that in the case in hand, material witnesses (42 in number) are already examined and cross-examined. The evidence side of prosecution is at verge of completion. The copies of documents sought to be produced were not provided to accused beforehand and therefore, there is every possibility of brushing aside the defence raised by way of cross-examination of the prosecution witnesses. In the circumstances, the documents which are merely photocopies, can not be produced at such belated stage. Reliance is placed upon the judgment of Hon'ble Andhra Pradesh High Court in the case of *Thota Ramalingeswara Rao Vs. State of Andhra Pradesh* reported at **1958 CrLJ 1286**.

8] Ld. counsels for the defence have also relied upon the judgment of Hon'ble Apex Court in the case of *Amrtubhai Shambhulal Patel Vs. Sumanbhai Kantibhai Patel & Ors decided on 2.2.2017 in Criminal Appeal No.1171 of 2016 (Arising out of S.L.P.(CRIMINAL) No.3338 of 2015), bench Hon'ble Justice Dipak Mishra and Hon'ble Justice Amitava Roy*. In the said case, after recording statement under Section 313 of Cr.P.C., an application under Section 173(8) of the Code of Criminal Procedure was moved by the informant to call for a report from the Forensic Science Laboratory as regards one particular page of the register of the Notary (public), which according to informant was of debatable authenticity, as it appeared to have been affixed/pasted with another page thereon. Said application was allowed by the Magistrate. However, Hon'ble High Court has set aside the order on the ground that provisions of Section 173(8) of the Code can only be exhausted at the instance of investigation officer and not at the instance of informant. It was also observed that having regard to the

sequence of evidence and the delay on the part of the informant to make such prayer at the closing stage of trial, the application was not entertainable. The Hon'ble Apex Court has upheld the view of Hon'ble High Court thereby observing that provisions of Section 173(8) of the Code can be exhausted if the investigating agency may for good reasons inform the trial court and seek permission to conduct further investigation, the court *suo moto* can not embark upon such a stage or take that initiative on the request or prayer made by the complainant/ informant. For similar such contention, the Id. Defence counsels have further relied upon the ratio laid down in '*B L Udaykumar; T R Muruges; Ashok Kumar Vs. State of Karnataka by Police of Kushalnagar Police Station reported at 2018 CrLJ 3925*' and '*R N Kakkar Vs. hanif Gafoor Naviwala reported at 1995 CrLJ 365*'.

9] In the light of above submissions, it is necessary to evaluate facts of the present application. The application pertains to the prayer for production of documents, i.e. the photocopies of Government Securities alleged to have been provided by Home Trade Limited to NDCC Bank. Application is moved after examining about 40 material witnesses.

10] There is no explanation on record as to why the investigation officer did not collect these photocopies from R.B.I. and why the same were not annexed with the chargesheet. Even the photocopies of these documents are not filed on record. Now these documents are sought to be produced through the witness who happens to be the officer of Reserve Bank of India.

11] Under such circumstances and considering the law laid down in aforesaid citations, it is respectfully submitted that the application does not provide the satisfactory reasons for non-production of documents at the appropriate stage. Hence, there appears no good reason for allowing the

application. It can not be allowed merely because the court is empowered to permit the production of documents after filing of chargesheet. It can only be done if some good reasons are shown for their production at earlier stage and further that, even after due diligence, the I.O. was not able to produce the same alongwith chargesheet or that the documents were beyond his reach at the time of filing of chargesheet. Hence, it is respectfully submitted that the ld. Spl. Public Prosecutor can not take the aid of the citations relied upon by her to put forth her contentions in the present set of facts.

12] In the result, following order is hereby passed.

ORDER

Application stands rejected.

Dt. 03.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Evidence are same word to word, as per original Evidence.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1791) dt.3.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.04 17:31:25
+0530

ORDER BELOW EXH.No.1849.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 04.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1849) dt.4.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.06 11:12:26
+0530

ORDER BELOW EXH.No.1850.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 04.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

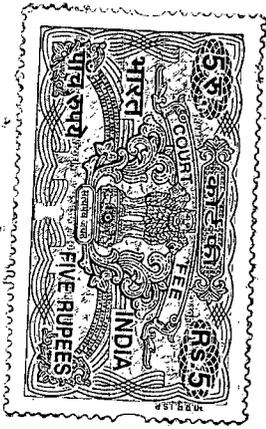
Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1850) dt.4.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.06 11:13:52
+0530



Eth. 1857

In The Court of A C J M Nagpur

RCC no:- 147/02.

State

-m-

Sunit & others

Application for Grant of permission to file
Decree as per list annexed.

The Accused no:- 7 begs to submit as
under:-

That the Accused is deferring the
debt as per list annexed to the
B. witness. today

Therefore permission may kindly be
granted to the Accused to file
the same on record.

Hence this Appli.

Prayer: It is therefore prayed
for Grant of permission
to file debt on record
as per list annexed.

Production
allowed
9/18/20

Nagpur
18/4/2020

Adv
C F Decree No:- 547
Adv G. N. Prabh

In the Court of A.C.J.M. Nagpur

R.C.C. 147/02

EPH. 1862

State

Vs.

Sunit Kedar a othar

Application for issuing Summons to witnesses
The prosecution prays for issuing Summons

to the following witnesses:-

1. Ketan Chowkse @ S. Ramakanth 11. 3. 2020
2. Smt. Sandra Rodrigues 12. 3. 2020
3. Anil Patil 13. 3. 2020
4. Vinod Deshmukh 16. 3. 2020
5. Laxmishree Des -"-
6. Golaknath 17. 3. 2020
7. Keshu Beley 17. 3. 2020

Hence this application.

Prayer: Prayed accordingly.

Nagpur
27/3/20

Shrihari
S.P.P.

0
Allowed
S.P.P.
27/3/20

ORDER BELOW EXH.No.1863.

Personal exemption granted from 5th to 7th March, 2020 subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 05.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1863) dt.5.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.06 15:31:55
+0530

ORDER BELOW EXH.No.1864.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 05.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1864) dt.5.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.06 15:36:09
+0530

ORDER BELOW EXH.No.1875.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 06.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1875)
dt.6.3.2020

Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.03.08 17:27:37
+0530

ORDER BELOW EXH.No.1876.

Personal exemption granted upto 19th March, 2020 subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 06.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1876)
dt.6.3.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.03.08
17:28:00 +0530

Eth. No. 1920-A

In The Court OF ACJM, Nagpur

RCC 147/2002

FF-6.3.2020

State - vs - Sunil & others.

The prosecution most respectfully
submits as under;

1) That, the prosecution witness I.O. Shri.
K.V. Sawade was listed for evidence on
5.6.2020 and was duly served with the
summons.

2) However, he could not be ^{remain} present
before the Court for adducing evidence
due to sudden emergency of health of
his near relative. The I.O. has undertaken
to remain present on the next day
i.e. 6.3.2020.

3) It is, therefore, just & necessary
to give time to this witness and permit
prosecution to examine him today i.e.
6.3.2020 as prosecution witness.

PRAYER :- It is prayed accordingly.

Nagpur

DT - 6.3.2020

Heard
APP - 6/3/2020

Allowed
6/3/2020

ORDER BELOW EXH.No.1940.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 11.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur.

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1940) dt.11.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.12 17:01:30
+0530

ORDER BELOW EXH.No.1939.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 11.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1939) dt.11.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.12 17:01:03
+0530

EM. No. 1941

In the Court of A.C.J.M Nagpur

R.C.C.No. 147/02

State

Vs.

Sonil Kedar & others.

Application for issuing B. Warrant against witnesses

The prosecution submits as under:

That in the above matter, summons was issued to Ketan Chowksey & Ramakant Daspote of service of summons, it appears that witness Ketan Chowksey is avoiding to attend the court & therefore to serve his presence it is necessary to issue B. Warrant against witness Ketan Chowksey in the interest of justice.

Prayer : Prayed accordingly.

Nagpur
D/H 11.3.20

Jyoti
S.P.P.

0
For the reasons mentioned in the application, issue B/W of Rs. 7000/- against the witness Ketan Chowksey.
S.P.P.
11/3/20

ORDER BELOW EXH.No.1944.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 12.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1944) dt.12.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.13 17:00:21
+0530

Eth. 1949

In the Court of A.C.J.M. Nagpur

R.C.C.No. 147/02

State

vs.

Sunit Kedari & others

Application for issuing summons to witnesses

The prosecution prays for issuing summons to foll. witnesses:-

1. Smt. Nani Shama
2. Shri B. Jasbir Singh
3. Shri Iphian Corin

Hence this application.

Prayer: Prayed accordingly.

Nagpur
Dt/ 12.3.20

Jugan
S.P.P.

Other side to say
(S.P.P.)
12/3/20

ORDER BELOW EXH.No.1950.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 13.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1950) dt.13.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.14 16:49:50
+0530

Eth. 1951

In the Court of A.C.J.M. Nagpur

Reg. Cr. C. No. 147/02

State

vs.

Sunil Kedar & others

Application for issuing B. warrant against witness

The prosecution begs to submit as under:

1. That ⁱⁿ the above matter summons was issued to witness Anil Pant by WhatsApp, but as the witness has not attended nor he is responding to the call, Prosecution requests for issuing B. warrant in the interest of justice.

Prayer: Prayed accordingly.

Suryan
S.P.P.

Nagpur
04/13.3.20

For the reasons mentioned in the application issue B/w of Rs. 5000/- against him to 17/3/20
13/3/20

Date : 11/03/2020

Ref. : _____

BY REGISTERED AD
WITHOUT PREJUDICE

EM. 1952

To,
The Hon'ble Additional Chief Judicial Magistrate
Room No: 106, 1st Floor,
Nyay Mandir, Aakashwani Square,
District Court,
Nagpur.

Sub: Witness Summons on 11/03/2020 in Case No: 147/2002

Dear Sir,

I am in receipt of a copy of Witness Summons on phone, I wish to inform your goodselves that I respect and honour the Court / System and also wanted to come, but regret to inform your goodselves that I shall not be able to come from Mumbai in view of the current situation due to serious and sudden Corona Virus Out Break beyond anybody's control and hence request your goodselves to kindly pardon me for the same. I hereby kindly request your goodselves that a date be refixed later in the next month once the situation is normal.

I regret the inconvenience caused to your goodselves and further request your goodselves that in view of the extraordinary situation and circumstances beyond anybody's control, kindly consider my request and oblige.

Thanking You,

Yours Faithfully,



Ketan Chokshi

CC: Police Station Ganeshpeth / C.I.D, Nagpur.

Received to Court by post -
on 13/3/20 Home,
seen & filed, as B/W is
already issued against
this witness
(100)
13/3/20

ORDER BELOW EXH.No.1952-A.

Personal exemption granted upto 27/03/2020, subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 16.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1952-A) dt.16.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.17 16:58:47
+0530

ORDER BELOW EXH.No.1954.**(Dated : 16/03/2020)**

1] This is an application for adjournment on behalf of accused No.1 on the ground that his learned counsel is not feeling well. Ld. counsels for all other accused have submitted that probably they would adopt the cross-examination conducted on behalf of accused No.1.

2] It is submitted on behalf of prosecution that the witness is aged about 69 years and it is not convenient for him to come repeatedly to the court at Nagpur from Pune. Another witness Mr. Laxmidhar Dash is also present, who is from Mumbai. The cross-examination of witnesses is being conducted on behalf of the accused No.1, either by Adv. Shri Chavan or by Adv. Shri. Dharmadhikari. The matter is time-bound and the other side is trying to protract the same. Hence, she has prayed to levy a cost of Rs.50,000/- for causing delay.

3] Be that as it may, it is not disputed that the cross-examination of so many witnesses has been conducted on behalf of the accused persons. The cross-examination of the prosecution witnesses on behalf of accused No.1 is conducted either by Adv. Mr. Ahuja or by Mr. Chavan or by ld. Senior counsel Mr. Dharmadhikari. Present application does not demonstrate the name of any specific advocate, out of these three ld. Counsels, who is alleged to be ill. However, during the course of submissions, Adv. Mr. Chaitanya Barwe has submitted that he has been instructed by Ld. Senior Counsel Mr. Dharmadhikari to make submission before court. Mr. Chaitanya Barwe further submitted that both the counsels for accused No.1 are not feeling well.

4] Accepting the contention of Adv. Mr. Barwe, the adjournment can be granted subject to payment of bhatta as directed by the court and other conditions, namely, to conduct the trial as per next schedule starting w.e.f. 23/03/2020, with a no objection to examine some other witnesses, if any, prior to the cross-examination of present witness. It is also submitted by both the parties that they are ready to conduct the cross-examination of this witness by video conferencing. Ld. Counsel for accused No.1 has further prayed to keep the matter for cross-examination of this witness on 26/03/2020.

5] In view of the above facts and the submissions made at bar, following order is hereby passed.

ORDER

1. Application is allowed, subject to payment of bhatta of Rs.4000/- each to the witnesses Mr. Vinod Deshmukh and Mr. Laxmidhar Dash, as the witnesses are former bank employees, the bhatta so deposited shall be credited to Government. Accused No.1 shall also pay the tentative witness bhatta of Rs.4000/-, which may be adjusted against the bhatta which may be finally decided by the Court pertaining to Mr. S. Ramakanta who is intended to be examined on 17/03/2020. The accused No.1 shall also pay bhatta, if any, pertaining to some other witnesses, who are called on 17/03/2020.

2. It is made clear that this adjournment is subject to direction that the next schedule of the witnesses shall be from 23/03/2020 and that too without seeking any adjournment, except for some unavoidable circumstances.

3. As per the submission on behalf of prosecution and defence, the cross-examination of Mr. Vinod Deshmukh shall be conducted by video conferencing on 26/03/2020.

4. Prosecution to submit rescheduled programme of witnesses starting w.e.f. 23/03/2020 by 18th of March, 2020 and to take necessary steps in that respect.

Dt. 16.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1954) dt.16.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.17 16:59:19
+0530

ORDER BELOW EXH.No.1957.

Time granted till next date for depositing bhatta of Rs.16,000/- as per order passed below Exh.1954.

Dt. 16.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1957) dt.16.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.17 16:59:47
+0530

ORDER BELOW EXH.No.1961.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 17.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order
below Exh.1961)
dt.17.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.18 13:43:17
+0530

ORDER BELOW EXH.No.1960.

Personal exemption granted for today only subject to condition that the cross-examination of prosecution witnesses should be conducted on his behalf without challenging his identity.

Dt. 17.03.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC 147-2002 (Order below
Exh.1960) dt.17.3.2020
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2020.03.18 13:42:55
+0530

In the Court of A.C.J.M. Nagpur

R.C.C. 147/02

Eth. 1967

State

vs.

Sunil Kedar a others

Application for issuing Summons

The prosecution prays for issuing
Summons to following witnesses:-

- | | |
|------------------|---------|
| 1) Anil Pant | 23.3.20 |
| 2) Golaknath | 27.3.20 |
| 3) Ketan Chawkey | 1.4.20 |
| 4) Krishna Beley | |

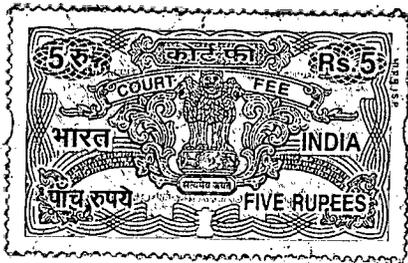
It is in this application.

Prayer: Prayed accordingly.

Nagpur
Dy 17.3.20.

Swapan
P.P.A

Summons issued to Anil Pant
on Ketan Chawkey 23/3/20 &
1/4/20 respectively. Dates of
other witnesses would be fixed
later on. 17/3/20



Est. No. 1965

In The Court of A C J M Nagpur

RCC no.: 147/02

State
- vs -

Surit Lathis

Application for Grant of Permission to file
Deed on Record.

The Accused wt 4 begs to submit as
under:-

That the Accused wants to refer the ~~same~~
copy of the notarised form no. 32
Submitted by Home Trade Ltd to The ROC
on 18/6/02 alongwith Receipt & Resolution
dated 19/1/2000 & 15/5/2001.

The Said Deed is filed alongwith list
and the same may kindly be taken on
Record with liberty to file the office copy or
Certified if available on next date of hearing.
Hence this Appln.

Production
allowed

13/3/20

Prayer: It is therefore prayed for Grant
of permission to file Deed on record
as per list annexed herewith.

Nagpur
dt 17/3/2020

Chhab
C F Accno: 4

BEFORE THE

A. C. J. M. Sant Nagpur

Estn. 1966

RCC No. 147 of 20 2002

State vs. Sunit Lotus

List of Documents Filed by Accord no: 4

Document No.	Description of Documents	Date of Document	Original / Copy
①	Copy of Resolutions	19/1/2000	same
②	Copy of Resolutions	15/5/2001	same
③	Copy of Form no: 32 Submitted to ROC	15/5/2001	same
④	Copy of Receipt of Form no: 32 Submitted to ROC	18/5/2001	same
<p>0 Filed photocopies 2 12/3/20</p>			

Nagpur.

Date 17/3/2020

Sunit
Council for the Accord no: 4

Date : 13/03/2020

Ref. : _____

BY REGISTERED AD
WITHOUT PREJUDICE

EM. 1968

To,
The Hon'ble Additional Chief Judicial Magistrate,
Room No: 106, 1st Floor,
Nyay Mandir, Aakashwani Square,
District Court,
Nagpur.

Sub: Witness Summons on 16/03/2020 in Case No: 147/2002

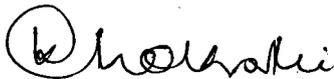
Dear Sir,

This is further to my request letter dated 11/03/2020. I wish to inform your goodselves that I am in receipt of a copy of Witness Summons on phone, I further wish to inform your goodselves that I respect and honour the Court / System and also wanted to come, however in view of the World Health Organisation (WHO) declaring Corona Virus as Pandemic and also Central / State declaring the same as Epidemic and also its Guidelines to avoid Travel due to Spreading of Sudden & Serious Corona Virus OutBreak in the Country / State beyond everybody's control, hence I regret to inform your goodselves that I shall not be able to travel and come from Mumbai in view of the current situation and in the light of the above, I request your goodselves to kindly pardon me for the same. I hereby once again earnestly request your goodselves that a date be refixed later once the situation is normal.

I regret the inconvenience caused to your goodselves and further request your goodselves that in view of the unprecedented times and extraordinary situation and circumstances beyond anybody's control, kindly consider my request and oblige.

Thanking You,

Yours Faithfully,



Ketan Chokshi

CC: Police Station Ganeshpeth / C.I.D. Nagpur.

As a last chance,
witness summons
be issued to
1/4/20 by
whatsapp
& other mode
if any
12/3/20

ORDER BELOW EXH.No.1949.
(Dated : 22/06/2020)

1] This is an application on behalf of prosecution to issue summons to the witnesses i.e. the then R.B.I. officials namely, Smt. Wani Sharma, Mr. B. Jasbirsingh and Mr. Surin.

2] The application is opposed on the ground that these witnesses have been already discharged as per the prayer of prosecution and in place of these witnesses Mrs. Sandra Rodrigues (P.W.No.25) – the Assistant General Manager of R.B.I. is examined. The number of prosecution witnesses have been already examined and the defence is exposed. Under such circumstances, this is nothing but an attempt on the part of prosecution to fill up the lacuna. It is prejudicial to the interest of accused persons.

3] Heard learned Spl.P.P. and A.P.P. for State and learned counsels of the respective accused.

4] Admittedly, the witnesses named in the application were already summoned vide order passed below application (Exh.1300). The report of the witness summons is received vide Exh.1437-B, 1437-C & 1437-E alongwith letter of P.S.O., P.S.Ganeshpeth. It is reported that one of the witness Mr. S.K. Mishra is no more and other two witnesses were retired from R.B.I. and were not traceable. It is pertinent to note that the R.B.I. had issued a letter to prosecution vide Exh.1437-A thereby requesting to examine Smt. Sandra Rodrigues in place of above witnesses.

5] In view of above circumstances, prosecution moved an application (Exh.1438) thereby praying to examine Smt. Sandra Rodrigues in place of other witnesses i.e. officials of R.B.I. to whom the summons were issued initially. This application was strongly opposed on behalf of defence. However, the same was decided on merit and permission was granted to prosecution to examine Smt. Sandra Rodrigues in place of above R.B.I. officials.

6] Accordingly, prosecution has examined Smt. Sandra Rodrigues (P.W.No.25) and she has been cross-examined by the defence. It is pertinent to note, that the documents which the prosecution had intended to prove through the witnesses named in the present application have been already exhibited in the evidence of Smt. Sandra Rodrigues. Thereafter, number of witnesses have been examined. As much as 49 witnesses have been examined.

7] Therefore, once the prosecution has made it's intention clear to discharge the witnesses named in the present application and to examine Smt. Sandra Rodrigues in their place and as all the documents have been exhibited, there appears no legal justification for permitting the prosecution to examine such witnesses. There appears sufficient force in the argument advanced on behalf of defence that the witnesses have been discharged on the request of prosecution and in their place another top official of R.B.I. has been examined, the defence has been exposed as considerable number of witnesses have been examined. Therefore, again allowing such application would seriously prejudice to their interest.

8] In the result, the application deserves to be rejected.

9] Hence, the following order.

ORDER

Application is rejected.

Dt. 22.06.2020

Sd/-
(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF
Order are same word to word, as per original
Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade
II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others
ORDER BELOW EXH.No.01.

The examination-in-chief of one of the witnesses Mr. Vinod Gunderao Deshmukh (P.W.48) has been completed. This Court has already directed to conduct his cross-examination via video conferencing as per order Dt. 16/03/2020 passed below Exh. 1954.

In SOP dated 03/06/2020 issued by Honorable High Court it is directed - "Cases (including MACP) in which substantial evidence is recorded and either of the parties to the proceeding agree to examine the witness through Video Conferencing or on commission, the concerned judge in his discretion may allow such examination, with a rider the witness shall not be compelled to attend the Court for such examination."

In view of the same, the prosecution and defence shall explore the possibility of completion of cross-examination of witness Mr. Vinod Gunderao Deshmukh (P.W.48) through Video Conferencing in the present situation.

Both the parties to submit their respective responses before this Court by the next date.

Dt. 16.09.2020

(S.R.Totla)
Jt. Civil Judge Senior Division,
Nagpur.

R.C.C.No.147/2002
State vs. Sunil Kedar and others

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1976.

P.E. granted till 5.10.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 22.09.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

SAY BELOW ORDER BELOW EXB. 31954
(VIDEO CONFERENCING)

The counsel for accused no. 1 most humbly submits as under.

1. It is most humbly submitted that the counsel for the accused has tested positive with COVID-19 and hence will not be able to conduct cross examination of the witness.
2. The counsel further submits that due to the voluminous documentary evidences in the instant case it would not be possible to carry out the examination of the witnesses effectively and ~~he~~ would cause grave injustice to the accused and submits that in light of the recent surge of COVID-19 cases in Nagpur, there is a high probability that the the counsels and parties involved ~~be~~ maybe affected by the virus and hence most humbly submits that the cross examination be done once the lockdown is lifted. Application is strongly opposed.

~~R. Jadhav~~
C.F. ACCUSED No. 1
22.09.2020.

~~Shilpa~~
C.F. ACCUSED no. 8 and 9.
22.9.2020.

Seen & filed
(SUN)
22/9/20.

R.C.C.No.147/2002
State vs. Sunil Kedar and others
ORDER BELOW EXH.No.1980.

P.E. granted till 19.10.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 12.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1981.

P.E. granted till 19.10.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 12.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1982.

P.E. granted till 23.10.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 19.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1983.

P.E. granted till 23.10.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 19.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1984.

P.E. granted till 20.11.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 29.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1985.

P.E. granted till 20.11.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 29.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1986.

P.E. granted till 20.11.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 29.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1987.

P.E. granted till 20.11.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 29.10.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1988.

P.E. granted till 20.11.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 06.11.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1989.

P.E. granted till 05.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 23.11.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1990.

P.E. granted till 05.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 23.11.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1991.

P.E. granted till 05.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 23.11.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1992.

P.E. granted till 05.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period.

Dt. 23.11.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1

1] In view of SOP dated 27.11.2020 issued by Hon'ble Bombay High Court r/w Circular dated 27.11.2020 issued by Hon'ble District and Sessions Court, Nagpur, it has been directed that all the Subordinate Courts of District Court, Nagpur should resume regular functioning with effect from 1st December, 2020.

2] As the present case has been made time-bound by the Hon'ble Bombay High Court and as the regular trial was hampered due to COVID-19 pandemic, it is now necessary to resume the trial in compliance with the directions of Hon'ble High Court issued in **PIL No.58/2019, Omprakash Bhaurao Kamdi -Vs- State & Ors.** and also in view of the directions issued by Hon'ble High Court vide SOP dated 27.11.2020 and the circular of Hon'ble District Court bearing No. B-16(2)/99/2020, dated 27th November, 2020.

3] During the trial, 49 witnesses have been examined. Out of them, cross-examination of one of the witness Mr. Vinod Deshmukh (P.W.No.48) is pending. Likewise, examination of other witnesses named in application (Exh.1967) was not possible due to COVID-19 pandemic. Hence, in compliance with the above referred directions of Hon'ble High Court and Hon'ble District Court, witness summons be issued to the following witnesses R/N on the dates shown against their respective names.

Sr.No.	Name of witness	Returnable on
1.	Mr. Anil Pant	07/12/2020
2.	Mr. Golaknath	10/12/2020
3.	Mr. Vinod Gunderao Deshmukh	14/12/2020
4.	Mr. Ketan Choukase	17/12/2020

R.C.C.No.147/2002
State vs. Sunil Kedar and others

4] Witness summons be issued accordingly.

Dt. 02.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.1) dt.2.12.2020
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2020.12.02
14:39:09 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No. 1993.
(Dt. 02/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 02.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.1993) dt.2.12.2020
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2020.12.02
14:40:21 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1994.
(Dt. 05/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 05.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC.No.147-
2002(Order below
Exh.1994)
dt.5.12.2020
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2020.12.07
12:41:48 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1995.
(Dt. 05/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 05.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.1995)
dt.5.12.2020
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2020.12.07
12:42:18 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1996.
(Dt. 05/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 05.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.1996)
dt.5.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.07
12:42:43 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1997.
(Dt. 05/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 05.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.1997) dt.5.12.2020
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2020.12.07
12:43:13 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1998.
(Dt. 07/12/2020)

P.E. granted till 14.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 07.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.1998)
dt.7.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:39:01 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2006.
(Dt. 15/12/2020)

P.E. granted till 28.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 15.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2006)
dt.15.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:37:26 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2007.
(Dt. 15/12/2020)

P.E. granted till 28.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 15.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2007)
dt.15.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:39:52 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2008.
(Dt. 15/12/2020)

P.E. granted till 28.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 15.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2008)
dt.15.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:40:14 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2009.
(Dt. 15/12/2020)

P.E. granted till 28.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 15.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2009)
dt.15.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:40:37 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2010.
(Dt. 15/12/2020)

P.E. granted till 28.12.2020, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 15.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2010)
dt.15.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.15
14:41:01 +0530

ORDER BELOW EXH.No.2013
(Dt. 19.12.2020)

1] This is an application for adjournment on behalf of accused No.1. It is contended that son of senior counsel Shri. Dharmadhikari has received the inconclusive report for COVID-19, which is considered to be presumptive positive report and the doctors have advised to take precautions and not to expose even to the family members.

2] It is further contended that another counsel Shri. Chavan for accused No.1 had been tested positive for COVID-19 and presently he is suffering from some post COVID symptoms.

3] On the above two grounds, the prayer is made to adjourn the matter at least for 15 days.

4] Learned Special Public Prosecutor has opposed the application on the ground that witness has attended the Court for fourth time and there is direction of Hon'ble High Court for expediting the trial. She has also submitted, that at least his examination-in-chief be recorded and the counsels for other accused should be directed to cross-examine him and the matter be adjourned for cross-examination on behalf of accused No.1.

5] It is the fact, that on last occasion, this witness Mr. Anil Pant was scheduled to be examined on 7.12.2020. However, owing to his personal ground, he could not appear in the Court on the said date and thereafter, summons was reissued for his examination and his examination is scheduled today.

6] However, the reasons mentioned in the application would disclose that the son of senior counsel Shri. Dharmadhikari is diagnosed with COVID-19 symptoms and the doctors have advised him and his family members, including senior counsel Shri. Dharmadhikari, not to expose himself and to take precautions. Another counsel for accused no.1 Shri. Chavan has submitted in the application itself that he is suffering from post COVID symptoms as he was

diagnosed positive for COVID-19.

7] Under such circumstances, none is available on behalf of accused No.1 to conduct the trial. Therefore, examination-in-chief of witness in absence of accused or his advocate is not desirable. It would not be desirable to force the learned counsel for accused No.1 to appear before the Court as according to them, the doctors have advised them to take precautions and not to expose themselves due to COVID-19 symptoms found in the son of learned senior counsel for accused No.1 and post COVID symptoms faced by advocate Shri. Chavan.

8] In the above background, following order is hereby passed.

ORDER

Adjournment is granted for today only, subject to payment of *bhatta* to witness Shri. Anil Pant, as per rules.

Dt. 19.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2013)
dt.19.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.19
16:12:00 +0530

COMMON ORDER BELOW APPLICATIONS
EXH.NO.2002 & EXH.NO.2014.
(Dt. 19.12.2020)

1] Application (Exh.No.2002) is filed on behalf of accused Sanjay Hariram Agrawal for keeping the trial in abeyance on the ground that the application for transfer of this case is pending before the Hon'ble Bombay High Court, Bombay. It is averred that said application alongwith other proceedings is pending before the Hon'ble High Court and the matter is kept for final hearing on 04.01.2021.

2] Learned Special Public Prosecutor today filed say to the application and has also advanced her arguments opposing the said application. Learned counsel for accused Sanjay Hariram Agrawal has also putforth his submissions. However, he has prayed to keep the matter on 22.12.2020 as he is willing to refer some citations in support of his application.

3] Application (Exh.No.2014) is for reissuing summons to witness Anil Pant, Ketan Choukasi, Golaknath and Vinod Deshmukh. In view of the above circumstances, following order is hereby passed.

ORDER

1. Keep both the applications i.e. applications (Exh.No.2002 & Exh.No.2014) for citation and order on 22.12.2020.
2. Original order be kept with application (Exh.2002) and its copy be kept with application (Exh.2014).

Dt. 19.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Common Order
below Exh.2002 &
Exh.2014)(Exh.2002)
dt.19.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.19 16:13:33
+0530

In the Court of C.J.H. Nagpur

~~Spt. E~~
R.C.C. No 147/02

Eth. 2014

State
Vs.

Sunit Kedar & others

Application for issuing summons & direction
to defence to comply with the order

The Prosecution submits as under:-
That in the above matter, Prosecution examined
Shri Vinod Deshpande on 16.3.20 x as per the
request of Defence vide Appn Etn 1954 and
as per the order below Etn 1954, cross examination
of Vinod Deshpande shall be conducted by
video conference. The witness is about 69 yrs
& n/o Pune x as per his letter Etn 2014, he is
suffering from old age health issues & not
allowed to venture in public place &
therefore defence be directed to conduct cross
examination by video conference.

The Prosecution also requests for re-issue
of summons to

- 1) Anil Pant
- 2) Ketan Chauksi
- 3) Golekhat
- 4) Vinod Deshpande - after 15th Jan' application

Prayer : Prayed accordingly.

Nagpur
27/12.20

Sunit
Spt. P.P.

COMMON ORDER BELOW APPLICATIONS
EXH.NO.2002 & EXH.NO.2014.
(Dt. 19.12.2020)

- 1] Application (Exh.No.2002) is filed on behalf of accused Sanjay Hariram Agrawal for keeping the trial in abeyance on the ground that the application for transfer of this case is pending before the Hon'ble Bombay High Court, Bombay. It is averred that said application alongwith other proceedings is pending before the Hon'ble High Court and the matter is kept for final hearing on 04.01.2021.
- 2] Learned Special Public Prosecutor today filed say to the application and has also advanced her arguments opposing the said application. Learned counsel for accused Sanjay Hariram Agrawal has also putforth his submissions. However, he has prayed to keep the matter on 22.12.2020 as he is willing to refer some citations in support of his application.
- 3] Application (Exh.No.2014) is for reissuing summons to witness Anil Pant, Ketan Choukasi, Golaknath and Vinod Deshmukh. In view of the above circumstances, following order is hereby passed.

ORDER

1. Keep both the applications i.e. applications (Exh.No.2002 & Exh.No.2014) for citation and order on 22.12.2020.
2. Original order be kept with application (Exh.2002) and its copy be kept with application (Exh.2014).

Dt. 19.12.2020

Sd/-
(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Note :- Original order is kept with application (Exh.No.2002).

ORDER BELOW EXH.No.2002
(Dt. 22.12.2020)

This is an application on behalf of accused No.3, 4 & 7 i.e. Sanjay Agrawal, Ketan Seth and Amit Varma respectively to keep the trial of this case in abeyance till final orders are being passed by Honourable High Court, Mumbai in Criminal Application No. 628/2014, Sanjay Agrawal Vs. State & Ors.

2] It is submitted on behalf of accused that the issue involved in this matter is *subjudice* before the Honourable Bombay High Court. In support, learned counsel for accused has relied upon copies of following orders passed by the Hon'ble High Court :

1. Order dated 7.11.2019 passed in P.I.L. No. 58/2019 Omprakash Kamdi & Ors Vs. State of Maharashtra & Ors.
2. Order dated 4.12.2019 passed in Criminal Application No.628/2014,
3. Order dated 29.9.2020 & 22.10.2020 in Criminal Interim Application No.1/2020 in Criminal Application No.628/2014.
4. Order dated 29.10.2020 & 26.11.2020 in Criminal Interim Application No.63/2020 in Criminal Application No.628/2014.
5. Order dated 19.12.2014 passed in Criminal Application No. 628/2014.

3] It is contended on behalf of accused that proceeding of entire trial has been stayed as per order at Sr.No.5 above. Therefore, the prayer to stay the present trial which is being conducted as per the order at Sr.No.1 is pending for reconsideration before the Honourable High Court in Criminal

Application No.628/2014 and other similar applications pertaining other cases. Under such circumstances, this court shall stay its hands away by keeping the present trial in abeyance. In support, he had relied upon the case of *Kishor Bhikansingh Rajput Vs. Preeti Kishor Rajput* reported at *2007LawSuit(BOM)1014*.

4] The learned Special Public Prosecutor has strongly opposed the application on the ground that Honourable High Court has not granted any stay in the matter and the application No.628/2014 and other applications referred to by the learned counsel for accused are pending before the Honourable High Court since considerable period. She would further submit that when the Honourable High Court has directed this Court to expedite the matter and try the case on day to day basis, this Court can not keep the matter in abeyance as prayed for. Keeping the trial in abeyance would amount to violation of the directions given by the Honourable High Court for speedy trial. She would further submit that the aforesaid citations relied by the accused is on totally different facts and it is not applicable in the present case.

5] I have carefully gone through the copies of the orders referred (*supra*) on behalf of accused/applicants. On perusal of the said orders, it is clear that applications referred to by the learned counsel for accused are pending before the Honourable High Court. It is also clear that in none of the applications there is any order to stay the proceeding of this case which is started as per the order passed by Hon'ble High Court in P.I.L.No.58/2019 on 7.11.2019 (*referred at Sr.No.1 in Para No.2 above*).

6] In the case of '*Kishor Bhikansingh Rajput (cited supra)*', it was observed that the trial court had abruptly dismissed a family petition inspite

of having knowledge that one of the orders passed by it was under challenge before the Honourable High Court.

7] However, in the case at hand, the facts are different. This Court is trying the case as per the directions given by the Honourable High Court in P.I.L.No.58/2019 (referred above). The case is allotted to this Court since 11.11.2019 and since then more than a year has been lapsed. The ratio in case of '*Kishor Bhikansingh Rajput (cited supra)*', it is well explained by the Hon'ble High Court in the case of **Vishwanath P. Mahadeshwar Vs. Suryawanshi Balrup Thakur and others, Writ Petition No.9411 of 2010 dated 10.02.2011, CORUM : Honourable Justice B.R.Gavai**. In Para No.7 & 8 of the said judgment, it is observed thus :

“7 It can therefore be seen that in the peculiar facts and circumstances and taking into consideration the conduct of the learned Judge in proceeding with the matter in haste and dismissing the marriage petition itself, though informed about the pendency of the proceedings before this Court, I was required to make the aforesaid observations.

8.....

I am at pains to say that the aforesaid judgment in Kishor Rajput's case is being used as a tool to protract the proceedings by the litigants not interested to proceed with the matters before the lower courts. No doubt that if the order of the subordinate court is challenged before this Court and the subordinate court is informed about the pendency of the matter before this Court, it would be expected of the trial Court to stay its hands away for a period of a week or two, so as to enable the parties to get circulation before this Court and obtain appropriate orders. However, merely by filing the proceedings before this Court, the proceedings before the lower courts cannot be permitted to be protracted for months together at the interest of the litigants who neither circulate the matters

before this Court nor get the interim order staying the proceedings.”

8] In the case at hand, considerable period of about more than one year has been lapsed since the beginning of trial. This Court is only following the directions issued by Honourable High Court in P.I.L.No.58/2019 (*cited supra*). Thus, the case is neither tried abruptly nor in any manner unknown to law, rather it is being tried in compliance of the directions issued by the Honourable High Court. Hence, it is respectfully submitted that learned counsel for accused/applicants can not rely upon the citation of '*Kishor Rajput (cited supra)*' to putforth his contentions in the present set of facts.

9] In view of the above discussion, it is clear that present application is devoid of any merits and the prayer in it, if allowed, would tend to amount breach of directions of the Honourable High Court to conclude the trial in time-bound manner. Hence, viewed by any angle, the application deserves to be rejected. In the result, following order is hereby passed.

ORDER

Application (Exh.2002) stands rejected.

Dt. 22.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2002)
dt.22.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.22
15:42:11 +0530

ORDER BELOW EXH.No.2014
(Dt. 22.12.2020)

The application (Exh.2002) to keep the trial in abeyance, preferred on behalf of some of the accused is already rejected by this Court. Hence, it is necessary to fix the next programme for the examination of remaining witnesses. It is pertinent to note that examination of one of the witnesses Mr. Vinod Deshmukh (P.w.No.48) is already completed. However, it is orally submitted on behalf of prosecution that owing to his health problems, the witness is not in a position to attend the Court till 15th of January, 2021. Considering these facts, next programme of examination of witnesses is hereby scheduled as under.

Sr.No.	Name of witness	Returnable on
1.	Mr. Golaknath	02/01/2021
2.	Mr. Anil Pant	06/01/2021
3.	Mr. Ketan Choukase	11/01/2021
4.	Mr. Vinod Gunderao Deshmukh	18/01/2021

Witness summons be reissued accordingly.

Dt. 22.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2014)
dt.22.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.22
15:42:36 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2015.
(Dt. 28/12/2020)

P.E. granted till 05.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 28.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2016.
(Dt. 29/12/2020)

P.E. granted till 05.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 29.12.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2016)
dt.29.12.2020
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2020.12.29
13:18:44 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2017.
(Dt. 01/01/2021)

P.E. granted till 05.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 01.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2017)
dt.01.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.01
15:04:57 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2018.
(Dt. 02/01/2021)

P.E. granted till 05.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 02.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2018)
dt.02.01.2021

Digitally signed by
Shekhar Ramnathji
Totla

Location: Nagpur
Date: 2021.01.02
14:14:29 +0530

Eth. 2020

In the Court of A.C.J.M. Nagpur

R.C.C. No 147/02

State

V.

Sunil Kedar & others

Application for re-issue of summons.

The Prosecution submits as under:

1. That the above matter is fixed for evidence today.
2. That summons was issued to witness Golak Nath but no reply is received from concerned department & therefore Prosecution requests for re-issue of summons to Shri. Golak Nath in the interest of justice.

Hence this application.

Prayer : Prayed accordingly.

Nagpur
27.1.2021

Shri. P. P.
S.P.P.

Issue witness
Summons 20/01/21
21/21

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2022.
(Dt. 06/01/2021)

P.E. granted till 20.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 06.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2022)
dt.06.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.06
14:35:28 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2023.
(Dt. 06/01/2021)

P.E. granted till 20.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 06.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2023)
dt.06.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.06 14:35:56
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2024.
(Dt. 06/01/2021)

P.E. granted till 20.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 06.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2024)
dt.06.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.06
14:36:23 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2025.
(Dt. 06/01/2021)

P.E. granted till 20.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 06.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2025)
dt.06.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.06
14:36:51 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2026.
(Dt. 06/01/2021)

P.E. granted till 20.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 06.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2026)
dt.06.01.2021
Digitally signed by Shekhar
Rannathji Totla
Location: Nagpur
Date: 2021.01.06 14:37:20
+0530

In the Court of A.C.J.K. Nagpur

R.C.C. 147/02

21. 2028

State

vs.

Sunil Kedar & others

PURVIS

That today Anil Pant was called as witness. As the witness is unable to attend the Court due to some unavoidable circumstances, the Prosecution is unable to proceed with evidence. Hence this purvis.

Nagpur
Dy. J. S. L. S. S.

Swapan
SPL P.P.

Seen
6-1-21

Eth. 2029

In the Court of A. C. J. H. Nagpur

R.C.C. 147/202

State

vs.

Sunil Kedar & others

PURVIS

That in the above matter H.C. Advt. G.P. Ms. Joshi has telephonically informed the undersigned that ^{Mumbai} she has received message from A.G. office to inform S.P.I.P.P. conducting the matter, not to proceed with the evidence.

Hence this Purvis.

Nagpur
dt/6.1.2020

dwajani
S.P.I.P.P

0

In the case at hand state C.I.D. has filed the chargesheet. Hence, state C.I.D. to clarify freely & make written submissions in respect of the contents mentioned in this Purvis.

(S/P.P.P.)
6/1/21

In the Court of A.C.J.H. Nagpur

R.C.C. 147/02

Eth. - 2032

State

vs.

Sunil Kedar & others.

Application for re-issuing summons to Ketan Chowky

The Prosecution begs to submit as under:-

1. That the above matter is fixed for evidence.
2. That in reply to summons issued to witness Ketan Chowky, he has repeatedly expressed his inability to attend the court due to some personal problems & Covid Pandemic & requested to record his deposition through video conference.

Under the above circumstances Prosecution prays for re-issue of summons/permission to examine the witness Ketan Chowky through video conference in the interest of justice. Hence this application.

Prayer: Prayed accordingly.

Swapan
Sp. P.P.

Nagpur
21.1.21

0
Other side to say

11-1-21

Say of the Accused No 8 & 9

This appn is strongly opposed.
Ample of chances have been already given to prosecution to procure his attendance.
Hence appn seems to be rejected.

11/1/21
C.F.A. No. 8 & 9

AdShangde
C.F.A. 2

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2036.
(Dt. 21/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 21.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2037.
(Dt. 21/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 21.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2038.
(Dt. 21/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 21.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2039.
(Dt. 21/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 21.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word,
as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2040.
(Dt. 21/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 21.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word,
as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.1.
(Dt. 22/01/2021)

Vide application (Exh.2041), S.P. State C.I.D. has submitted a copy of letter dt. 11/01/2021 issued to her office by the office of the Public Prosecutor, High Court (A.S.), Mumbai. Said copy is not authenticated by any responsible officer. Hence, State C.I.D., Nagpur is directed to submit an authenticated copy of the said communication.

Dt. 22.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2035.
(Dt. 25/01/2021)

Except accused No.1, other accused did not file say.
Hence, application to proceed without say of remaining accused
persons.

Dt. 25.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2045.
(Dt. 25/01/2021)

Put up for order alongwith application Exh.2032 & 2035.

Dt. 25.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2042.
(Dt. 22/01/2021)

P.E. granted till 30.01.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 22.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word,
as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1.

1] As per order dated 16.9.2020 passed below Exh.1, this Court has directed both the parties to explore the possibilities of completion of cross-examination of witness Mr. Vinod Gunderao Deshmukh (P.W.48) through video conferencing. These directions have been given in view of SOP dated 3.6.2020 issued by Hon'ble High Court. Accused No.1, 2, 8 & 9 have filed their written submission in response to said order vide Exh.1976/A. It is submitted that learned counsel for accused No.1 is tested COVID positive and is unable to conduct the cross-examination. It is further submitted that the record is bulky and it would not be possible to carry out the examination effectively and without following the norms of physical distancing. It is argued that file is bulky and the advocates for accused, the public prosecutor, the court staff and the court itself will have to handle the file while referring the documents to the witness under cross-examination. Under such circumstances considering the pick cases of COVID-19 at Nagpur, there is high probability that the counsels and the concerned parties might get affected by the virus borne disease. Hence, they have prayed to start the cross-examination after the regular court working is resumed.

2] Accused No.4 & 7 have filed their response vide Exh.1978. It is submitted that the cross-examination of the witness can not be conducted via video conferencing. The defence would require to refer some documents to the concerned witness during his cross-examination and therefore, the physical presence of witness is necessary before the Court. The accused are residing respectively at Mumbai and Ahmedabad and they are willing to remain presence during the cross-examination of the said witness. However, due to prevalent pandemic situation, they are not able to come to the court at Nagpur. It is further submitted that the SOP dated 15.9.2020 issued by

State vs. Sunil Kedar and others

the Hon'ble High Court is now kept in abeyance till September 30, 2020 or until further order, whichever is earlier. Hence, these accused have prayed to keep the matter after resuming regular court work and after the issuance of fresh notification/guidelines in this respect by the Hon'ble High Court.

3] Thus, at this stage, none of the accused has shown any willingness to conduct the cross-examination of the said witness through video conferencing. Moreover, it is informed that accused No.1 is tested COVID positive and he is home quarantine. It also appears that learned counsel for accused No.1 is tested COVID positive and the copy of medical report to that effect is filed on record.

4] Learned A.P.P. has submitted that said witness is ready to make himself available from his home-town for facing cross-examination through video conferencing. However, it is orally submitted on behalf of State C.I.D. that said witness has informed and prayed to keep the matter for cross-examination by video conferencing at least 8 days after 24.9.2020.

5] As per SOP dated 3.6.2020 issued by Hon'ble High Court, the witnesses can be examined only through video conferencing or on commission, if both the parties are ready.

6] Under such circumstances and the various SOPs issued by Hon'ble High Court, if either of the party is not ready to conduct the evidence by video conferencing then trial can not be proceeded. That apart, the learned counsel for accused No.1 appears to have been tested COVID positive and it is informed that he can not attend the cross-examination at least for 14 to 15 days. In view of the same, following order is hereby passed.

ORDER

1. Put up the matter for further consideration on 5.10.2020 or until any circular, SOP or guidelines are issued by Hon'ble Higher Authorities for conducting the regular court working, whichever is earlier.
2. Till then all the accused/ learned advocates for accused, learned A.P.P. & Special Public Prosecutor to daily keep in touch with the updates, if any, issued by the Hon'ble Higher Authorities in the meantime, regarding conducting of the present trial.

Dt. 25.09.2020

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur**Certificate**

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.2032.
(Dt. 30/01/2021)

Perused the application and say. Heard learned Special Public Prosecutor and learned counsels for the respective accused. The prosecution has prayed to examine this witness through video conferencing. It is pertinent to note that the trial involves voluminous record. There are multiple accused and multiple counsels representing them. The trial relates to serious offences punishable under Sections 406, 409 etc of Indian Penal Code. The witness sought to be examined happens to be Chartered Accountant and according to prosecution, he has prepared the Audit Report which is filed alongwith chargesheet. Considering all these facts, examination of this witness by video conferencing would not be practicable. Hence, the following order.

ORDER

Issue witness summons to Ketan Choukasi returnable on
15/02/2021.

Dt. 30.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2032)
dt.30.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.30
13:00:31 +0530

ORDER BELOW EXH.No.2035.
(Dt. 30/01/2021)

Perused the application and say. Heard learned Special Public Prosecutor and learned counsels for the respective accused. The case involves voluminous record and the witness is likely to be confronted on some documents by the defence counsels. There are multiple accused represented by multiple advocates. Hence, cross-examination by video conferencing would not be practicable. In the result, following order is passed.

ORDER

Issue witness summons to Vinod Deshmukh returnable on
08/02/2021.

Dt. 30.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2035)
dt.30.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.30
13:00:56 +0530

ORDER BELOW EXH.No.2045.
(Dt. 30/01/2021)

This is an application to issue witness summons to the witnesses Anil Pant and Golaknath. It is submitted in the application that both witnesses are ready to come to the Court for adducing evidence. It is further submitted, that the Honourable High Court has directed to conduct the trial on day-to-day basis.

2] This Court is well aware about the directions of Honourable High Court to conduct the trial on day-to-day basis. This Court is trying its best to conduct the trial as per the directions of Honourable High Court. However, during COVID-19 pandemic, neither the prosecution witnesses (except Anil Pant) appeared before this Court nor the defence has conducted the trial though the witness Anil Pant repeatedly appeared before the Court. The prosecution witnesses as well as the defence has taken various adjournments on one or the other ground on the basis of SOPs issued by the Honourable High Court time to time. The Court is always there to record the evidence if both the parties are ready and are intended to conduct the trial, not only in words but also in spirit.

3] It is pertinent to note that since about a year this Court has repeatedly issued witness summons to the witness Golaknath. However, all the time the prosecution has failed to trace his address. This is first time, by way of this application, it is informed that he is

ready to come to Court for adducing evidence. Other witnesses i.e. Ketan Choukasi and Vinod Deshmukh have repeatedly requested this Court for exempting their personal appearance on the ground of ill-health/ COVID-19 pandemic.

4] Even it is on record, that the A.G.Office through telephonic message directed the Special Public Prosecutor not to conduct the trial/ evidence. However, there was no official communication to this Court in this regard. The Special Public Prosecutor had orally informed this Court that she was in receipt of a telephonic message from A.G.Office thereby directing her not to conduct the evidences. Court insisted her to put her contentions in writing. Accordingly, the learned Special Public Prosecutor filed a Purnis (Exh.2014) in that regard. The State Crime Investigation Department was directed to clarify the situation. The reply received by them is at (Exh.20410. In fact, it is not the reply or explanation, but by way of Exh.2041, copy of certain communication dated 11.1.2021 made by Office of Public Prosecutor, High Court (A.S.), Mumbai is only attached with it. Said communication states that there was some mis-communication between the A.G.Office and learned Special Public Prosecutor. However, the learned Special Public Prosecutor has not endorsed that there was any mis-communication. In fact, there is no order of the Honourable High Court thereby directing this Court either to stay the trial or to conclude the trial.

5] Be that as it may, the fact remains that the order to conduct the trial day-to-day is in force which is binding on both the

parties as well as on this Court. Hence, the following order.

ORDER

Issue witness summons to Anil Pant and Golaknath
returnable on 04/02/2021 and 11/02/2021 respectively.

Dt. 30.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2045)
dt.30.01.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.01.30
13:01:25 +0530

ORDER BELOW EXH.No.2046.
(Dt. 30/01/2021)

Perused application and say. Heard learned counsel for accused No.3, 4 & 7 and learned Special Public Prosecutor for the State. As per SOP dated 29.01.2021 issued by Honourable Bombay High Court, the regular functioning of all the Courts is to be started w.e.f. 01.02.2021. The witness summons are already directed to be issued against the concerned witnesses as per order passed below Exh.2032, 2035 and 2045. In view of these orders, this application stands disposed of.

Dt. 30.01.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2046)
dt.30.01.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.01.30 13:01:53
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2048.
(Dt. 01/02/2021)

P.E. granted till 06.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 01.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2048)
dt.01.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.01 16:01:14
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2049.
(Dt. 01/02/2021)

P.E. granted till 06.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 01.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2049)
dt.01.02.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.02.01
16:01:51 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2050.
(Dt. 01/02/2021)

P.E. granted till 06.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 01.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2050)
dt.01.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.01 16:02:25
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2052
(Dt. 04/02/2021)

This is an application on behalf of accused No.1 for grant of adjournment on the ground that father of the counsel Mr. D.V. Chavan is not feeling well.

2] Application is strongly opposed on behalf of prosecution on the ground that witness is present before the Court. Accused No.1 is represented by many other counsels. Therefore, other counsels on his behalf can well conduct the trial. It is also averred that trial is already delayed due to pandemic.

3] Heard Adv. Mr. Nishchay Jadhav h/f Adv. Shri. Chavan.
Heard ld. A.P.P. for State.

4] It is pertinent to note that witness Mr. Anil Pant who is present before this Court is a senior citizen. It is also notable that he repeatedly attended the Court on witness summons issued to him time to time. However, the defence has sought adjournment many times on one or the other grounds, namely, ill-health of son of senior counsel Mr. Dharmadhikari, ill-health of Adv. Mr. Chavan and now the ill-health of father of Adv. Mr. Chavan.

5] In fact, accused No.1 is represented by multiple counsels

including Mr.Chavan, Mr.Ahuja and senior counsel Mr. Dharmadhikari. One of them would have conducted the trial. It is for the accused No.1 to make an alternate arrangement for conducting the trial through one of the multiple counsels representing him. It is unfortunate and undeserving to repeatedly send back a senior citizen witness without any fruitful cause, especially, during the period of pandemic. Under such circumstances, if the adjournment is granted, the witness will have to be sent back without any fruitful cause and he will have to attend the Court once again. Hence, it is necessary to grant *bhatta* as well as a reasonable cost to the said witness. Hence, the following order.

ORDER

(1) Adjournment granted for today only, subject to payment of *bhatta* which is already due as per order passed below application (Exh.2013) and in addition, cost of Rs.2000/- to the witness Mr. Anil Pant. Cost and *bhatta* shall be paid today or tomorrow i.e. 5.2.2021.

(2) With consent of both the parties, this witness will be examined on 20.02.2021.

Dt. 04.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2052)
dt.04.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.04 16:33:03
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2053.
(Dt. 04/02/2021)

P.E. granted till 06.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 04.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2053)
dt.04.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.05
16:10:37 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2054.
(Dt. 05/02/2021)

P.E. granted till 06.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 05.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2054)
dt.05.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.05
16:11:17 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2057.
(Dt. 08/02/2021)

P.E. granted till 15.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2057)
dt.08.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.08
16:09:40 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2058
(Dt. 08/02/2021)

1. This is yet another application for adjournment on behalf of accused No.1 on the ground of ill-health of father of Adv. Mr. D.V.Chavan.
2. Application is strongly opposed on behalf of prosecution. It is submitted that the witness is aged about 70 years and he has traveled to this Court from Pune at the risk of his life.
3. Heard both the sides.
4. It is apparent from the record that on one or the other ground, the adjournments have been sought on behalf of accused persons. The witness is a senior citizen, R/o Pune. On the last date also, one of the witnesses was sent back as similar application for adjournment was moved on behalf of accused No.1. While adjourning the matter, it was observed by this Court that it was for accused to make alternate arrangement, if any, from his other advocates representing him, if any of them is having any problem to attend the Court. However, without making any alternate arrangement, present application is moved. Merely by making payment of bhatta, the witnesses can not be sent back, especially when the Honourable High

Court has directed to conduct the matter day-to-day and the witnesses are coming to Court by traveling long distance.

5. Ld. Counsel Mr. Chaitnya Barve h/f Adv. Mr. Chavan has submitted that on the next date the accused will not seek any adjournment and he will make an alternate arrangement if his counsel Mr. Chavan suffers any difficulty to attend the Court on his personal grounds. Under such circumstances, as of last chance, following order is hereby passed.

ORDER

[1] Adjournment granted for today only, subject to payment of bhatta of Rs.3000/- + costs of Rs.3000/-, Total Rs.6,000/- (Rs. Six Thousand only) to the witness Mr. Vinod Gunderao Deshmukh.

[2] The witness has prayed for next date to be given after 6th of March, 2021 as he has to come from Pune and having some health issues and other personal problems. Hence, the cross-examination of this witness be conducted on 8th of March, 2021.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2058)
dt.08.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.08 16:10:20
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2059.
(Dt. 08/02/2021)

P.E. granted till 15.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2059)
dt.08.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.08 16:10:43
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2060.
(Dt. 08/02/2021)

P.E. granted till 15.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2060)
dt.08.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.08
16:11:10 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2061.
(Dt. 08/02/2021)

P.E. granted till 15.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2061)
dt.08.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.08
16:11:35 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2063
(Dt. 08/02/2021)

This witness is repeatedly served through witness summons. However, every time he has forwarded his inability to attend the Court through letters. The record of the case is bulky and it is contended on behalf of prosecution that evidence of this particular witness can not be recorded through Video Conferencing. His personal appearance is necessary before the Court. However, inspite of repeatedly served through summons, this witness appears to be reluctant to appear before the Court. Hence, the Court is satisfied that his presence can not be secured by way of mere witness summons. Hence, issue b/w of Rs.5000/- against him R/o 23.02.2021.

Dt. 08.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word,
as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order below
Exh.2063) dt.08.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.08 16:13:07
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2066.
(Dt. 16/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 16.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2066)
dt.16.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.16
15:57:48 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2067.
(Dt. 16/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 16.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2067)
dt.16.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.16
15:58:11 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2068.
(Dt. 16/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 16.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order below
Exh.2068) dt.16.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.16 15:58:35
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2069.
(Dt. 16/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 16.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2069)
dt.16.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.16 15:58:58
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2070.
(Dt. 16/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 16.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2070)
dt.16.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.16 16:00:11
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2071.
(Dt. 17/02/2021)

P.E. granted till 20.02.2021, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 17.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2071)
dt.17.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.17 16:37:44
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2074.
(Dt. 20/02/2021)

Application is granted, subject to bhatta of Rs.400/-
to witness and the witness should be examined on 24.2.2021

Dt. 20.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2074)
dt.20.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.20
15:11:34 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2075.
(Dt. 23/02/2021)

Witness not present.

Hence, personal exemption granted for today only.

Dt. 23.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2075)
dt.23.02.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.02.23
16:48:54 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2076.
(Dt. 23/02/2021)

Witness not present.

Hence, personal exemption granted for today only.

Dt. 23.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2076)
dt.23.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.23
16:49:13 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2078.
(Dt. 23/02/2021)

Issue B/W of Rs.5000/- against the witness r/o 4/3/21.

Dt. 23.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2078)
dt.23.02.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.02.23
16:49:32 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2079.
(Dt. 24/02/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 24.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order below
Exh.2079) dt.24.02.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.02.24 15:45:30
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2080.
(Dt. 24/02/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined during the said period, without disputing the identity of witness.

Dt. 24.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2080)
dt.24.02.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.02.24
15:45:50 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2081.
(Dt. 24/02/2021)

Production allowed.

Dt. 24.02.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

COMMON ORDER BELOW EXH.No.2086 & 2087.
(Dt. 04/03/2021)

1. Perused the applications (Exhs.2086 &2087), and report of service of bailable warrant (Exh.2086) and the record of the case.
2. Application (Exh.2086) is the letter of witness and the State CID carried the same with them and put up before the Court along with the service report of bailable warrant. According to service report, bailable warrant is duly served upon the witness.
3. Application (Exh.2087) is preferred by the prosecution for reissuing bailable warrant against him.
4. It is pertinent to note that this Court has repeatedly issued witness summons and bailable warrants against this witness. All of them are duly served. However, this witness appears to be in habit of floating the orders of Court on every occasion. He also appears to be in habit of repeatedly issuing letters to the Court and has tried to colour various reasons at various times thereby expressing his inability to attend the Court. These reasons, sometimes includes COVID pandemic, sometimes on the ground of his old aged parents and in present report, he asked the Court to forward the hard copies of record to him for his study at least 15 days prior to the date of hearing and then he will adduce the evidence only through video conferencing. All the letters which he has issued, more or less, appears to be scripted one. It seems that the summons/warrant serving agency appears to have worked like

a postman and used to annex his letters with such reports before putting them in Court.

5. No doubt, there is some problem of COVID-19 pandemic. Considering this fact, Court has number of times given a further date to this witness for attending the Court and to lead evidence. Fact remains, that all the government servants from top most level to the Class-IV level, all the businessmen, professionals, labour class, agriculturists and all the citizen of country are working in such situation also. However, it appears that only this witness is having much problem than any other citizen of India. Every time he is trying to make a show, that in our Country, entire sky is falling upon him only.

6. The Court has already issued witness summons and bailable warrants against this witness repeatedly and which are served upon him. Every time this witness used to send letters from his home, the serving agency carried it and put up before the Court. Present letter (Exh.2086) would show that this witness on his own is trying to set the time, venue and manner of recording his evidence, thereby not only showing great disrespect to the order of this Court but also to the order of the Honorable High Court. It is well within the knowledge of every stake holder that the Honorable High Court has directed to try the case on day to day basis. Irrespective of the same, this witness is dictating the Court to send him the hard copies of record on his address well in advance for his study. He has flatly refused for his physical appearance before the Court on flimsy grounds. Under such

circumstances, again issuing a bailable warrant against him would not serve the purpose. Therefore, this Court is satisfied from the report that the presence of this witness can not be secured unless a non-bailable warrant is issued against him. The witness is well aware that his physical presence is necessary before the Court as the case involves voluminous documents. In spite of the same he continued to float the orders of the Court and used to sending letters like one under consideration which is at (Exh.2062).

7. In view of above observations, it can safely be concluded that the witness will not appear before the Court and will continue to float the orders of the Court and therefore, to secure his presence, issuance of non-bailable warrant is necessary. Accordingly, following order is hereby passed.

ORDER

- [1] Issue non-bailable warrant against the witness Ketan Chaukasi, returnable on 17.03.2021. Warrant be handed over to State CID, Nagpur for its execution.
- [2] Bail-bond (Exh.2088) furnished in response to service of bailable warrant hereby stands forfeited.
- [3] Prayer of the witness in application (Exh.2062) stands rejected.

Dt. 04.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Common
order below
Exh.2086&2087) dt.4.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.04 15:21:00
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2089.
(Dt. 04/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 04.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2089)
dt.4.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.04 15:21:42
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2090.
(Dt. 04/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 04.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2090)
dt.4.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.04
15:22:10 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2091.
(Dt. 04/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 04.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2091) dt.4.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.04 15:23:07
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2092.
(Dt. 04/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 04.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2092) dt.4.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.04 16:16:55
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2094.
(Dt. 05/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 05.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2094) dt.5.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.05 15:31:13
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2095.
(Dt. 05/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 05.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.2095)
dt.5.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.05
15:31:40 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.2096.
(Dt. 05/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 05.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.2096) dt.5.3.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.03.05
15:32:01 +0530

ORDER BELOW EXH.No.3000.
(Dt. 05/03/2021)

Seen, heard and recorded.

Dt. 05.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3000)
dt.5.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.05
16:16:23 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3001.
(Dt. 08/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 08.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3001)
dt.8.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.08
16:03:25 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3002.
(Dt. 08/03/2021)

Personal exemption granted for today only, subject to condition that, witnesses if any, called for examination should be examined, without disputing the identity of witness.

Dt. 08.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3002)
dt.8.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.08
16:03:48 +0530

ORDER BELOW EXH.No.3003.
(Dt. 08/03/2021)

It is informed on behalf of witness that number of COVID patients are detected from the building where he resides in Pune. Therefore, considering the situation and the reasons mentioned in the application by Ld. APP, witness summons be issued to him returnable on 19/03/2021.

Dt. 08.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3003)
dt.8.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.08
16:04:11 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3007.
(Dt. 17/03/2021)

- 1] Perused the application and say.
- 2] Heard the witness Mr.Ketan Choukasi in person and ld. APP for State.
- 3] Considering the reasons mentioned in the application, same is hereby allowed. No further action be taken against the witness Mr. Ketan Choukasi and the surety Mr. Shrirang Kamble in pursuance to the clause No.2 of the operative part in common order dated 4.3.2021 passed below Exh.2086 and 2087.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3007)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
15:13:18 +0530

ORDER BELOW EXH.No.1.
(Dt. 17/03/2021)

Today the witness Mr. Ketan Choukasi is present before the Court. Only accused No.1, 2 and 11 have submitted applications for their personal exemption. However, other accused and their learned counsels have neither appeared before the Court nor filed any application for personal exemption or for adjournment.

2] It is pertinent to note that the Nagpur Corporation Area is under lock-down till 21st of March, 2021 in view of COVID-19 pandemic. In view of the same, the Honorable High Court as well as the Honorable District Court have issued SOPs/circulars thereby imposing some restrictions on the regular working of Court. It appears that under the guise of these SOPs, some of the accused neither appeared before the Court nor filed any application for their personal exemption or for adjournment. It is provided in the SOPs that Court should not pass any adverse order against the stakeholders in the case of their absence before the Court.

3] This Court is working as a dedicated court for the trial of this only case. The Honorable High Court has directed to conduct the trial on day-to-day basis and in time-bound manner. Under the circumstances, it is expected that all the parties should assist the Court in deciding the case as directed by the Honorable High Court.

4] However the fact remains that, today neither accused No.4 to 9 appeared before the Court nor any application for their personal exemption or for adjournment of the case has been filed on their behalf. It is pertinent to note that, the accused were enlarged on bail long back i.e. in the year 2002. Thus, almost 19 years have been lapsed from accepting their bails bonds by this Court. Under these circumstances, it is necessary to verify the living status as well as the whereabouts of their respective sureties. In view of the same, following order is hereby passed.

ORDER

- (1) As the accused No.4 to 9 are absent before the Court without disclosing any justified reason, they are directed to personally remain present before the Court alongwith their sureties, on or before 26.3.2021. In the meantime, notices be issued to their sureties as to why the bail-bonds furnished by them shall not be forfeited. In addition, notices to sureties should also be issued by RPAD.
- (2) Accused No.1, 2 and 11 shall also keep their sureties present before the Court on or before 26.3.2021.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.1)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
16:35:45 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3010.
(Dt. 17/03/2021)

Personal exemption granted for today only.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3010)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
16:36:13 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3011.
(Dt. 17/03/2021)

Personal exemption granted for today only.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3011)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
16:36:38 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and others

ORDER BELOW EXH.No.3012.
(Dt. 17/03/2021)

Personal exemption granted for today only.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.3012)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
16:37:05 +0530

ORDER BELOW EXH.No.3006.
(Dt. 17/03/2021)

The witness Mr. Ketan Choukasi sue moto appeared before the Court and filed the application for cancellation of arrest warrant issued against him for repeatedly floating the orders of Court to remain present and to lead evidence.

2] Ld. APP has submitted, that the witness is present before the Court and considering his undertaking to remain present on the next date, the warrant be cancelled on appropriate terms and conditions.

3] Heard the witness in person. He has submitted that he would abide by all the terms and conditions and he will remain present on the next date without fail. However, today he can not furnish solvent surety as he is resident of Mumbai and there is nobody in Nagpur to furnish surety for him.

4] Considering the submissions of the witness and the ld. APP, it would be appropriate to give a chance to the witness, subject to executing the personal bond of Rs.15,000/-.

5] It is pertinent to note that the Nagpur Corporation Area is under lock-down till 21st of March, 2021. In view of the same, the Honorable High Court as well as the Honourable District Court have issued SOPs thereby imposing some restrictions on the regular working of Court. It appears that under the guise of these SOPs, some of the accused neither appeared before the Court nor filed any application for

their personal exemption or that of adjournment. None appeared on their behalf. It is provided in the SOPs that Courts should not pass any adverse order against the stakeholders, in case of their absence before the Court.

6] Considering this situation, the next date of recording of evidence of this witness can only be fixed after resuming the regular court working, else as has been happened today, the accused may remain absent and the Court is restricted to pass any adverse order against them owing to the SOPs issued in this regard. It is, therefore, necessary to direct this witness to provide his cell phone number/whatsapp number and the e-mail address so that the next date of his appearance can be communicated to him smoothly and without any delay.

7] In view of above observations, following order is hereby passed.

ORDER

- (1) Arrest warrant issued against the witness Mr. Ketan Choukasi is hereby cancelled, subject to execution of personal bond of Rs.15,000/-.
- (2) The witness is further directed to provide his authenticated cell phone number/whatsapp number and e-mail address for communicating him the next date for his appearance.

Dt. 17.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3006)
dt.17.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.17
16:37:58 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3013.
(Dt. 19/03/2021)

Witness is not present today. Hence, personal exemption granted for today only, subject to compliance of the order dated 17.3.2021 passed below Exh.1 wherein the accused are directed to remain present alongwith their respective sureties.

Dt. 19.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3013)
dt.19.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.19
16:04:11 +0530

ORDER BELOW EXH.3014.
(Dt. 19/03/2021)

Perused the application and say of Ld. APP filed vide (Exh.3015). The Court is working with some restrictions as per the SOPs issued by Honorable High Court and Honorable District Court. On the last date, one of the witness Mr.Ketan Choukasi was present before the Court. However, some of the accused neither appeared before the Court nor filed any application for their personal exemption. Therefore, the Court was constrained to send back the witness without any fruitful cause. Under such circumstances, during the continuation of restricted workings of Court, it would be appropriate to fix the date of examination of this witness after 22nd of March, 2021. Hence, put up for further order on 23.03.2021.

Dt. 19.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3014)
dt.19.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.19
16:04:35 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3016.
(Dt. 19/03/2021)

Witness is not present today. It is informed that the accused is tested positive for corona-virus. Hence, personal exemption granted for today only, subject to compliance of the order dated 17.3.2021 passed below Exh.1 wherein the accused are directed to remain present alongwith their respective sureties.

Dt. 19.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3016)
dt.19.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.19
16:04:59 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3017.
(Dt. 20/03/2021)

Personal exemption granted for today only, subject to compliance of the order dated 17.3.2021 passed below Exh.1 wherein the accused are directed to remain present alongwith their respective sureties.

Dt. 20.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3017)
dt.20.3.2021
Digitally signed by Shekhar
Ramnathji Totla
Location: Nagpur
Date: 2021.03.20 15:18:10
+0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3018.
(Dt. 26/03/2021)

- 1] Perused application and say (Exh.3021).
- 2] Heard.
- 3] Time granted till 06/04/2021.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3018)
dt.20.3.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.03.26
16:00:34 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3019.
(Dt. 26/03/2021)

- 1] Perused application and say (Exh.3021).
- 2] Heard.
- 3] Time granted till 06/04/2021.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3019)
dt.20.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.26
16:00:56 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3020.
(Dt. 26/03/2021)

- 1] Perused application and say (Exh.3021).
- 2] Heard.
- 3] Time granted till 06/04/2021.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.No.3020)
dt.26.3.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.03.26
16:01:26 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3022.
(Dt. 26/03/2021)

Time granted till 06/04/2021.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3022)
dt.26.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.26
16:02:08 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3023.
(Dt. 26/03/2021)

The surety namely Mrs. Sudha Mogarkar is present. However, she has submitted that she has sold her house pertaining to which the solvency was filed on record. In the circumstances, the time is granted to furnish fresh surety till 06/04/2021.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.No.3023)
dt.26.3.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.03.26
16:02:29 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3024.
(Dt. 26/03/2021)

Personal exemption granted for today only.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-
2002(Order below
Exh.No.3024)
dt.26.3.2021
Digitally signed by
Shekhar Ramnathji
Totla
Location: Nagpur
Date: 2021.03.26
16:15:36 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3025.
(Dt. 26/03/2021)

Personal exemption granted for today only.

Dt. 26.03.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



RCC No.147-2002(Order
below Exh.No.3025)
dt.26.3.2021
Digitally signed by
Shekhar Ramnathji Totla
Location: Nagpur
Date: 2021.03.26
16:15:53 +0530

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3058.
(Dt. 07/06/2021)

P.E. is granted till 14/06/2021.

Dt. 07.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3060.
(Dt. 15/06/2021)

P.E. granted till 22/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 15.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



Exh 3061

In the Court of AJCM, at Nagpur

Cr Case No. 147/02

F.P. 15/6/21

State

— V —

Sunil Kedar

Application for Personal Exemption & Grant of time to Appear before this Hon'ble Court ^{along with} ~~Procure~~ Surety.

The Counsel for Accused No. 8 & 9 most humbly & respectfully submits as under:

1.] The above mentioned matter is fixed for Evidence before this Hon'ble Court today.

2.] That, both the accused No. 8 & 9 are Permanent Residents of Mumbai, and due to the ongoing restrictions regarding the Covid Pandemic were not able to travel to appear before this Hon'ble Court today. The Sureties also were not able to travel due to the Pandemic Restrictions. Hence, permission may kindly be granted for exemption from personal appearance of the two accused & time may kindly be granted to ^{Procure} ~~Procure~~ ^{Procure} Surety before this Hon'ble Court in the interest of Justice.

Hence this Application.

Prayer: It is therefore prayed that exemption from personal appearance of the accused No. 8 & 9 & time to Procure their Surety may be granted.

Nagpur
Date: 15/6/21

(Signature)

Counsel for Accused
No. 8 & 9

①
P.e. granted till 22/6/2021
subject to condition that
the witnesses, if any, should
be examined during the said
period, without ~~disclose~~
disputing identity of such
witness.

Time to furnish surety
granted till 22/6/2021

SM

15/6/21

12/12/21



IN THE COURT OF A.C.M , NAGPUR

S.T./Spl. Case/RCC No. 147/2002

State V/s. Sunil Kedar

Accused: Suresh Peshkar

APPLICATION FOR GRANT OF EXEMPTION FROM PERSONAL ATTENDANCE FOR ACCUSED NO. 1 FOR TODAY.

The counsel for the accused begs to submit as under:-

1) That, the case is fixed for today.

2) That, the accused No. 1 is/are unable to attend the court today as he/she/they

is/are not well & aged more than 80 years

Hence This Application....

PRAYER: It is therefore most humbly prayed that the Hon'ble Court may kindly be pleased to grant exemption from personal attendance for Accused No. 1... for today in the interest of justice.

NAGPUR:

DATED: 15/6/2021

T.M. Hind Chaurasia

C.F. Applicant / Accused
(C.H. Jaltare, Adv.)

P.E. granted for today only
15/6/21

ORDER BELOW EXH.No.3062.
(Dt. 15/06/2021)

P.E. granted till 22/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 15.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

Eh. -3065

IN THE COURT OF HON'BLE 2ND ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, NAGPUR

R.C.C. NO. 30147/2002

STATE OF MAHARASHTRA

-Vs-

SUNIL KEDAR & OTHERS

APPLICATION FOR DIRECTING THE ACCUSED TO SUPPLY THE COPY OF
THE ORDER IN SLP 10397/2019

The prosecution most humbly submits as under:

1. That, the accused has filed application for keeping the matter in abeyance till decision of the other proceedings filed before higher court in relation to the present matter. The reference has been made in the said application to the apparently unreported judgement of Hon'ble Apex Court in SLP 10397/2019.
2. That, in order to reply to the contention on the legal aspects it is necessary to direct the accused to supply the copy of the said judgement / order of the Hon'ble Apex Court.

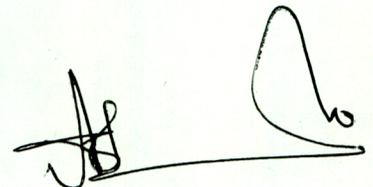
Hence this application.

PRAYER:

It is therefore, most humbly submitted that this Hon'ble Court may kindly be pleased to direct the accused persons to supply the copy of judgement and order in SLP 10397/2019, in the interest of justice.

NAGPUR

16.06.2021



SPL. PUBLIC PROSECUTOR

0
It seems that the ld. spl. P.P. seeks copy ~~form~~ of citation from other side. The number is mentioned in the application Exh. 3039. ld. spl. P.P. can collect the same on his own. ~~and~~
Hence, no directions required by this court as prayed for. Accordingly, application stands repeated.

5002
16/12/21



NAGPUR

EH. 3066

IN THE COURT OF A.C.S.M.

S.T./Spl. Case/RCC No. 147/2002

State v/s. Sunil Kedar & others

Accused: Suresh Peshkar

APPLICATION FOR GRANT OF EXEMPTION FROM PERSONAL ATTENDANCE FOR ACCUSED NO. 11 FOR TODAY.

The counsel for the accused begs to submit as

under:-

1) That, the case is fixed for today.

2) That, the accused No. 11 is/are unable to attend

the court today as he/she/they is/are not well & aged more than 80 years

Hence This Application....

PRAYER: It is therefore most humbly prayed that the Hon'ble Court may kindly be pleased to grant exemption from personal attendance for Accused No. 11. for today in the interest of justice.

Jitind Chaurasia

C.F. Applicant / Accused
(C.H. Jaltare, Adv.)

NAGPUR:
DATED: 16/6/2021

Re: granted for today also
16/6/21

ORDER BELOW EXH.No.3067.
(Dt. 17/06/2021)

P.E. granted till 22/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 17.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3039.
(Dt. 17/06/2021)

This is an application on behalf of accused No.2 Ashok Choudhary praying therein to keep the trial in abeyance till the transfer petitions pending before the Honourable High Court, Principal Bench at Mumbai are decided. In support of his submission, the reliance is placed upon the interim order dated 23/03/2021 passed by Honourable Apex Court in '**Special Leave to Appeal [C] No.10937/2019, Justice for Right Foundation Vs. Union of India and Others**'.

2] The prosecution has opposed the application on the ground that similar such applications are already rejected vide orders dated 27/02/2020 and 22/12/2020 passed below Exh.1824 and Exh.2002 respectively. It is further submitted that no stay is granted in this case. On the contrary, the Honourable High Court, Division Bench at Nagpur has directed to conduct the trial on day to day basis.

3] Heard Adv. Mr. Bhangde for accused No.2 and Adv. Mr. Barapatre h/for ld. Spl.P.P. Mr. Qureshi. Perused record of the case.

4] Carefully gone through the order of the Honourable Apex Court in '**Justice for Right Foundation Vs. Union of India and Others**' (cited supra). In this case, the Honourable Apex Court has stayed the matters pending before the Honourable High Court of Punjab and Haryana by passing the specific order to that effect.

5] However, in the case at hand, the Honourable High Court has directed this Court to conduct the trial on day to day basis and since 07/11/2019 this Court is functioning as Dedicated Court for the trial of this case. Since 07/11/2019, no higher Court has passed any stay order in the present matter. Hence, keeping the trial in abeyance as prayed for, would amount to breach of directions of the Honourable High Court to conduct the trial on day to day basis. Similar such applications filed on behalf of other accused vide Exh.1824 and Exh.2002 are already rejected by this Court. For the same reasons, this application also deserves to be rejected.

6] Hence, it is respectfully submitted that Id. Counsel for accused No.2 can not rely upon the order of Honourable Apex Court in '**Justice for Right Foundation**' (cited supra) in the present set of facts.

7] In the result, following order is hereby passed.

ORDER

Application stands rejected.

Dt. 17.06.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1.
(Dt. 17/06/2021)

This case is pending for cross-examination of witness Vinod Deshmukh (P.W.No.48) and for examination of witness Mr. Ketan Choukasi. Hence, ld. Spl.P.P. to take appropriate steps for the examination of these witnesses by tomorrow i.e. by 18/06/2021.

Dt. 17.06.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3068.
(Dt. 18/06/2021)

P.E. granted till 22/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 18.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3069.
(Dt. 21/06/2021)

This is an application for issuance of summons to Mr. Vinod Deshmukh (P.W.48). Prosecution has filed pursis alongwith the medical report of the wife of Mr. Vinod Deshmukh. As per said report, his wife who is aged about 69 yrs is found positive for COVID-19. It is also informed that said witness has informed that he is not able to attend the Court at Nagpur for next one month.

2] In view of the same, the ld. Spl.P.P. and Adv. Purohit for accused No.4 & 7 have consented to keep the matter for his cross-examination on 08.07.2021.

3] In the result, following order is passed.

ORDER

Issue witness summons to Mr. Vinod Deshmukh r/o on 08.07.2021.

Dt. 21.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors



Exh. 3093

Before Honble Addl. Chief Judicial Magistrate, Nagpur

Rep. Cr. case no: 147/2021

State -vs- Sunil Kedar & others.

Application for grant of time to comply order dtd 17.3.21 passed below Cr. 1.

The accused nos 5 & 6 most humbly begs to submit as under-

That the accused are resident of Nagpur, Kolkata & till 30th of this month there is lockdown. However the acc & very few trains are running. The accused no 5 with great efforts succeeded in getting the reservation on 1st of July & hence he will remain present in court on 2nd July 2021. However the accused no. 6 was detected covid & due to post covid complications he is unable to travel. He tho it was the accused shall file necessary document on 2nd July 2021.

Hence this application
Prayer: It is therefore prayed before this Honble Court in the interest of justice to grant time till 2nd July 2021 to comply order passed below Cr. 1 dt. 17.03.21

o
Time granted
as a last chance
till 08/07/2021
[Signature]
22/6/21 Dr.

[Signature]
546

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3094.
(Dt. 23/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 23.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3095.
(Dt. 23/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 23.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3096.
(Dt. 23/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 23.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3097.
(Dt. 23/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 23.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3098.
(Dt. 23/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 23.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors
ORDER BELOW EXH.No.3099.
(Dt. 24/06/2021)

P.E. granted till 30/06/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 24.06.2021

(S.R.Totla)
Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3107.
(Dt. 01/07/2021)

P.E. granted till 07/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 01.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3108.
(Dt. 01/07/2021)

P.E. granted till 07/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 01.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3109.
(Dt. 01/07/2021)

P.E. granted till 07/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 01.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3110.
(Dt. 01/07/2021)

P.E. granted till 07/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 01.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3111.
(Dt. 02/07/2021)

P.E. granted till 07/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 02.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3113.
(Dt. 08/07/2021)

P.E. granted till 14/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 08.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3114.
(Dt. 08/07/2021)

P.E. granted till 14/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 08.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3115.
(Dt. 08/07/2021)

P.E. granted till 14/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 08.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3116.
(Dt. 08/07/2021)

P.E. granted till 14/07/2021 subject to condition that witnesses, if any, should be examined during the said period, without disputing identity of such witness.

Dt. 08.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3117.
(Dt. 08/07/2021)

Issue witness summons through State C.I.D.,
Nagpur r/o 15/07/2021.

Dt. 08.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

RCC No.3030147/2002
State vs.Sunil Kedar

ORDER BELOW EXH.3121

Put up the case for evidence on 19.07.2021.

(S.R.Totla)
2nd ACJM, Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3119.
(Dt. 15/07/2021)

P.E. granted for today only.

Dt. 15.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3119-A.
(Dt. 15/07/2021)

P.E. granted for today only.

Dt. 15.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3119-B.
(Dt. 15/07/2021)

P.E. granted for today only.

Dt. 15.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3122.
(Dt. 19/07/2021)

P.E. granted for today only.

Dt. 19.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3123.
(Dt. 19/07/2021)

P.E. granted for today only.

Dt. 19.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3124.
(Dt. 19/07/2021)

P.E. granted for today only.

Dt. 19.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3125.
(Dt. 19/07/2021)

P.E. granted for today only.

Dt. 19.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3126.
(Dt. 19/07/2021)

P.E. granted for today only.

Dt. 19.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

COMMON ORDER BELOW EXH.No.1 & 3137.
(Dt. 20/07/2021)

1] Application (Exh.3137) is moved on behalf of prosecution to issue witness summons to Mr. S. Balan, the then General Manager of NABARD. In fact, application only discloses that, prosecution wants to examine the said witness and therefore, prayer is made to issue summons to him. No specific reason has been assigned for his intended examination, though, he is not cited as a witness in the charge-sheet.

2] However, learned Special Public Prosecutor has orally submitted that, the reference of this witness has been found in the evidence of Mr. Vinod Deshmukh (P.W.48). It appears from the record that, NABARD received the information about some irregularities/illegality in the investment of funds by Nagpur District Central Co-operative Bank. Therefore, the then General Manager of NABARD Mr. Balan has issued a letter to the said bank, thereby asking them to provide physical securities for inspection, which were alleged to have been purchased by the bank. This letter issued by Mr. Balan is at Exh.1956. His communication is marked as exhibit during the evidence of Mr. Vinod Deshmukh (P.W.48), who was also working in the NABARD at the relevant time.

3] Thus merely to prove such single communication their appears no need to examine multiple witness of the same office. The document can be proved through any of the officers of the

concerned office, who can identify the signature of the officer issuing communication in question. Hence, this Court is of the view that, there is no need to issue witness summons as prayed for. In the result, application Exh.3137 deserves to be rejected.

4] It is pertinent to note that, this case is about 20 years old. The Hon'ble High Court at various points of time had issued various directions to expedite the case and to dispose of the matter. Even for this purpose, this Court is working as a dedicated Court. As per order dated 07.11.2019 passed in P.I.L. No. 58/2019, Omprakash Kamadi -vs- Sunil Kedar & others, the Hon'ble High Court has directed to conduct the trial on day to day basis and to complete the same within 03 months. However, due to Covid-19 Pandemic, the trial was hampered. Till then almost all the witnesses, except Investigation Officer, have been examined.

5] As per application Exh.1967 moved by prosecution only 04 witnesses were remained to be examined as on 17.03.2020. Out of them, 03 witnesses have been examined by this Court and the last witness remained to be examined is Investigation Officer Kishor Bele. Thus the Court has examined almost all witnesses and only Investigation Officer has remained to be examined.

6] Recently, the Hon'ble High Court, Principal Bench at Mumbai vide its order dated 24.06.2021 passed in Cri.M.A.No. 628/2014, State of Maharashtra-Applicant, in the matter between Sanjay Hariram Agrawal -vs- Omprakash Kamdi and others, has

directed this Court to complete the trial by passing final judgment and order within maximum period of 04 months from the date of said order i.e. 24.06.2021. In paragraph No.67 of the said order, it is specifically recorded by the Hon'ble High Court, that only 03 witnesses were remained to be examined in this trial. It is thus clear that, the statement that 03 witness remained to be examined was responsibility made before the Hon'ble High Court and the same is recorded in the order by the Hon'ble High Court.

7] As stated supra, except the Investigation Officer, all other witnesses have been examined by this Court. Even after passing of this order by Hon'ble High Court, if the prosecution intended to examine any other witnesses, it should have moved the list of the such witnesses at once and as early as possible so as to comply the direction of the Hon'ble High Court to complete trial in time bound manner. However, the prosecution did not provide any such list to this Court as on today. On the contrary, during the intervening period, only two applications Exh.3069 and 3117 were moved on behalf of prosecution on 21.06.2021 and 08.07.2021, respectively. These applications were moved to issue witness summons to single witness only. As per these applications, the witnesses Mr. Vinod Deshmukh and Mr. Ketan Choksy have been examined by this Court. Thus moving such applications at the interval of every 10-15 days for the examination of single witness will not suffice the purpose and it will not also be sufficient to comply of direction of the Hon'ble High Court to complete the trial in the time bound manner. Prosecution has already exhausted the

sufficient time for examining the material witnesses and this Court has already given them the sufficient opportunities to examine the prosecution witnesses.

8] Thus, after perusing the entire record of the case, this Court is of the view that, except Investigation Officer, all other necessary witnesses as cited by prosecution have been already examined. Under the circumstances, reserving examination of the Investigation Officer, the evidence side of prosecution is required to be closed.

9] In the result, following order is hereby passed.

Order

- i] Application Exh.3137 stands rejected.
- ii] Except the examination of Investigation Officer, the evidence side of the prosecution is hereby closed.
- iii] Issue witness summons to the Investigation Officer.
Returnable on 29.07.2021.

(Original order be kept with Exh.1 and it's copy be kept with Exh.3137).

Dt. 20.07.2021

Sd/-
(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Shri. I.G. Sonkusare (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3139.
(Dt. 29/07/2021)

P.E. granted for today only.

Dt. 29.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3140.
(Dt. 29/07/2021)

P.E. granted for today only.

Dt. 29.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3141.
(Dt. 29/07/2021)

P.E. granted for today only.

Dt. 29.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3142.
(Dt. 29/07/2021)

P.E. granted for today only.

Dt. 29.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3144.
(Dt. 29/07/2021)

Ld. Special Public Prosecutor preferred this application for adjournment on his personal ground. It is submitted that his father is not well and therefore, he is not able to attend the Court. Considering the same, the adjournment can be granted subject to last chance. As the matter is time-bound one, it is made clear that if any such problem persists on the next date then the matter should be conducted by regular A.P.P. In the result, following order is passed.

ORDER

- i. Adjournment granted for today only in view of and in terms of the observations made hereinabove.
- ii. With the consent of all the parties, case be kept for evidence of the Investigation officer on 4th August, 2021.

Dt. 29.07.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3145.
(Dt. 04/08/2021)

Witness Mr. Kishor Bele (P.W.53) is present. Hence, personal exemption granted to the accused till the evidence of said witness is completed, subject to condition that they should not dispute their identity and they should be ready to receive the examination-in-chief and to conduct cross-examination of this witness.

Dt. 04.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3146.
(Dt. 04/08/2021)

Witness Mr. Kishor Bele (P.W.53) is present. Hence, personal exemption granted to the accused till the evidence of said witness is completed, subject to condition that they should not dispute their identity and they should be ready to receive the examination-in-chief and to conduct cross-examination of this witness.

Dt. 04.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



NAGPUR

IN THE COURT OF ACJM

S.T./Spl. Case/RCC No. 147/2002

State v/s. Sonil Kedar and Ors.

E.H. - 3147

Accused - Surush Peshkar
APPLICATION FOR GRANT OF EXEMPTION FROM PERSONAL
ATTENDANCE FOR ACCUSED NO. 11 FOR TODAY.

The counsel for the accused begs to submit as
under:-

- 1] That, the case is fixed for today.
- 2] That, the accused No. 11 is/are unable to attend
the court today as he/she/they
✓/are aged and not feeling well and
aged above more than 80 years.

Hence This Application....

PRAYER: It is therefore most humbly prayed that the
Hon'ble Court may kindly be pleased to grant
exemption from personal attendance for Accused
No. 11 for today in the interest of justice.

Milind Chaurasia

C.F. Applicant / Accused
(C.H. Jaltare, Adv.)

NAGPUR:

DATED: 4/8/21

0
P.e. granted for today only
subject to condition that ~~they~~
they should conduct the evidence
without disputing identity of
accused.


4/8/21

Warrant of Arrest

4/8/21

ORDER BELOW EXH.No.3148.
(Dt. 04/08/2021)

This is an another application for adjournment preferred on behalf of ld. Special Public Prosecutor on the ground that his father is not feeling well and he is advised to move his father to Hyderabad for further medical treatment. The application is supported by some medical documents.

2] It appears from the application and the documents annexed with it that ld. Spl. Public Prosecutor Mr. A.S.Qureshi is not in a position to attend the Court. On the last date also, an adjournment was sought on his behalf on the same ground. However, the matter is time-bound one. Therefore, while allowing the adjournment application on the last date, the Court has made it clear that if the personal problem of ld. Public Prosecutor persists then the matter would be conducted by regular A.P.P. assigned to this Court.

3] The Honourable High Court has directed to complete the trial within four months and approximately one month's time is passed therefrom. The application on behalf of ld. Spl. Public Prosecutor does not disclose as to when he would be able to attend the Court to conduct the case. Under such circumstances and towards the compliance of the directions of Honourable High Court, it would be appropriate that the ld. A.P.P. Smt. Gajbhiye to start the evidence of investigation officer who is present before the

R.C.C.No.147/2002

State vs. Sunil Kedar and ors

Court. On the last occasion also, owing to the adjournment application preferred on behalf of prosecution, the investigation officer who is senior citizen and retired police officer was sent back without any fruitful result. Under such circumstances, the blind prayer for further adjournment can not be accepted. In the result, following order is hereby passed.

ORDER

- i] Prayer for adjournment stands rejected.

- ii] Ld. A.P.P. Smt.Gajbhiye to examine the witness who is present before the Court.

Dt. 04.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3149.
(Dt. 04/08/2021)

Witness Mr. Kishor Bele (P.W.53) is present. Hence, personal exemption granted to the accused till the evidence of said witness is completed, subject to condition that they should not dispute their identity and they should be ready to receive the examination-in-chief and to conduct cross-examination of this witness.

Dt. 04.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3150.
(Dt. 04/08/2021)

Witness Mr. Kishor Bele (P.W.53) is present. Hence, personal exemption granted to the accused till the evidence of said witness is completed, subject to condition that they should not dispute their identity and they should be ready to receive the examination-in-chief and to conduct cross-examination of this witness.

Dt. 04.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3264.
(Dt. 09/08/2021)

This is an application for adjournment on behalf of accused No.1 on the ground that looking to the voluminous examination-in-chief of the investigation officer and the documents which were exhibited by the prosecution, 15 days time for preparation of his cross-examination is necessary. Adv. Shri. D.V.Chavan on behalf of accused No.1 has submitted that senior counsel Shri. Subodh Dharmadhikari would conduct the cross-examination of this witness without fail if the 15 days time is granted. He has further submitted that the matter be kept for cross-examination on 20th August, 2021 and he has further submitted that if, for any reason, the ld. Senior counsel Mr. Subodh Dharmadhikari fails to appear and conduct the cross-examination on the given date then he himself would conduct the cross-examination.

2] Ld. Spl. Public Prosecutor Mr. Qureshi would submit that he has no objection for grant of one week adjournment.

3] Considering the submission of both the sides and the assurance given on behalf of senior counsel Mr. Subodh Dharmadhikari, the adjournment granted for today only as a last chance. Keep the matter for cross-examination of investigation officer on 20.8.2021.

Dt. 09.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3266.
(Dt. 27/08/2021)

Adjournment granted for today only as a last chance.

The counsels for accused No.2, 4 to 9 have orally prayed to keep the matter on 31/08/2021 and that they would conduct the case without fail. Hence, keep the matter for cross-examination of I.O. on 31/08/2021 and thereafter day to day till completion of his cross-examination.

Dt. 27.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

COMMON ORDER BELOW EXH.No.3267, 3268, 3269 & 3270.
(Dt. 28/08/2021)

By quoting Section 301 of the Code of Criminal Procedure, these four applications are preferred by applicants Baba Burhan, Ganesh Dhanule, Madhukar Gomkale and Babanrao Runjhe respectively praying therein to allow them to assist the prosecution.

2] Say of prosecution on all these applications was called for. However, none appeared for prosecution though called repeatedly. Hence, heard learned counsels for respective applicants on merit.

3] At the times, when the cross-examination of investigating officer is completed on behalf of accused No.1 and when the case is pending for cross-examination on behalf of other accused persons, this flood of applications under different names has been moved to this Court. Though the applicants and their respective counsels in all these applications appear to be different, the contents of all these applications appear to be exactly similar.

4] In all the applications, the alleged facts of this case as per the wisdom of the respective applicants appear to have been pleaded. However, none of the application disclosed as to how they fall under the category of 'victim' as specified under the Proviso to Section 24(8) of the Code of Criminal Procedure.

5] Though these applications are titled under Section 301 of the Code of Criminal Procedure, the same are required to be considered

alongwith the Proviso to Section 24(8) of the Code of Criminal Procedure. It is clear from the joint reading of Section 301 and the Proviso to Section 24(8) that the two provisions are mutually complementary. However, in none of the applications it has been explained as to how these applicants are victims and how it is necessary to permit them to assist the prosecution.

6] In the applications (except the application of Baba Burhan), the reference is made to the case of **M/s J.K.International Vs. State, Govt. of NCT Delhi and others** reported in **AIR 2001 SC 1142** and **Dhariwal Industries Ltd. Vs. Kishore Wadhwani and Ors.**, reported in **AIR 2016 SC 4369**. By referring these citations, it is argued on behalf of applicants that the applicants have right to be heard as per the provisions of Section 301 of the Code of Criminal Procedure.

7] In the case of **M/s J.K. International** (*cited supra*), the complainant on whose complaint the F.I.R was registered, moved an application before the Honourable High Court to give him an opportunity of hearing in the proceeding where the accused filed the petition for quashing the F.I.R. In the circumstances, the Honourable Apex Court has held that such person was having right to be heard as per the provisions of Section 301 and 302 of the Code of Criminal Procedure.

8] However, facts of the present case are totally different. In the case at hand, the criminal law was not set in motion on the complaint of any of these applicants.

9] A common query was put to the learned counsels for all the

respective applicants, why they rushed to the Court at such belated stage, how they want to assist the prosecution, why they felt it necessary to assist the prosecution at this fag end of the trial and why they kept waiting for last 20 years. The reply on behalf of all the applicants was same that they came to know about this proceeding just now. They had a common answer that no prejudice would be caused to anybody if they are permitted to assist the prosecution. Both these answers are not only evasive but also very superficial. Under the circumstances, question arises, if they had been victim they would have shown their interest not only at the last stage of trial but since beginning, that is to say since the initiation of investigation. However, there is nothing on record to suggest that they had any role since the beginning of investigation till the date. Hence, it is respectfully submitted that the learned counsels for the applicants can not take the aid of aforesaid case laws to substantiate their contentions in the present set of facts.

10] In the case at hand, almost all the witnesses have already been examined. The investigating officer is cross-examined by accused No.1 and his cross-examination on behalf of other accused is scheduled on 31/08/2021. In the given facts, the flood of such similar applications at once creates doubt about the actual intention of these applicants. Under the circumstances, if crowd of people as such is allowed to get involved in the trial by allowing such groundless applications, it may have adverse consequence on fairness of trial. If such applicants, who according to them, came to know about this proceeding after 20 years of filing of chargesheet then how and in what manner they can assist the prosecution. On the other hand, if such applications are allowed, the trial may even end up becoming a vindictive battle between the counsels of such eleventh hour applicants and the accused, which may further

impact the safeguards put in place for the accused in criminal trial. The possibility of interfering with the strategic call of the learned Special Public Prosecutor taken for the further prosecution might also get affected adversely.

11] In all the above circumstances, all these applications do not hold any merit and are required to be rejected. In the result, following order is hereby passed.

ORDER

- 1] Applications (Exh.No.3267, 3268, 3269 and 3270) are hereby rejected.
- 2] This order be kept with application (Exh.No.3267) and its attested copy be kept with other applications (Exh.No.3268, 3269 & 3270).

Dt. 28.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3271.
(Dt. 31/08/2021)

Adjournment granted for today only.

Dt. 31.08.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3274.
(Dt. 03/09/2021)

Perused the application and say. Heard learned Counsel for accused No.9 and learned Special Public Prosecutor for State.

2] The investigation officer of this case is under cross-examination on behalf of accused No.9. On behalf of accused, some documents are intended to be referred to the witness during cross-examination. Original documents are brought by the accused and they are verified by Assistant Superintendent of this Court. It is submitted on behalf of accused that he can not file original documents on record as the same are required in some other litigations.

3] Be that as it may, the documents are intended to be referred to the witness during cross-examination. It is submitted on behalf of accused that these documents are relevant so as to confirm the status of accused in the alleged company.

4] Under such circumstances, as the documents are intended to be referred during cross-examination of witness, the production thereof is hereby allowed.

Dt. 03.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3278.
(Dt. 03/09/2021)

Perused the application. Heard both sides. There is no dispute that there is a typographical error while quoting the amount. Hence, it is required to be corrected. In the result, following order is hereby passed.

ORDER

- 1] Application is hereby allowed.
- 2] Correction be carried out accordingly.

Dt. 03.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3277.
(Dt. 04/09/2021)

Perused the application and say. Heard learned Counsel for accused No.8 and learned Special Public Prosecutor for State.

2] It is contended on behalf of accused that Form No.32 pertaining to accused No.1 is missing from the file (Exh.3161/H). According to him, such missing of document might be because of tampering of court record. Hence, he has prayed to inquire the matter.

3] It is submitted on behalf of prosecution that the documents which are submitted by prosecution are already on record and therefore, the application deserves to be rejected.

4] Perused the file (Exh.3161/H). It is the contention of prosecution that files pertaining to Indramani Merchants Private Limited were submitted to the investigation agency by C.A. Mr. Wanjara. Said Mr. Wanjara was looking after the accounts and audit of Indramani Merchants Private Limited. Whatever files Mr. Wanjara had submitted to the investigation agency are on record.

5] It is pertinent to note that file (Exh.3161/H) submitted on behalf of prosecution has an index pasted on the overleaf of the file. However, said index does not bear signature of anyone. Hence, at this stage, there is nothing on record to assess the correctness of index and to conclude that factually Form No.32 relating to accused No.8 was submitted by Mr. Wanjara to the investigation agency. Under such circumstances, the inquiry as prayed is uncalled for. Whatever

contentions in this regard, the parties concerned can argue at final hearing. Hence, prayer made in this application for inquiry of the matter is hereby rejected.

Dt. 04.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3282.
(Dt. 04/09/2021)

There being typographical mistakes only, the same be corrected. The amount be mentioned in figures and words.

Dt. 04.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3283.
(Dt. 04/09/2021)

Seen. Suggestion given on behalf of accused can be read in conscience with the suggestions given and questions put in earlier cross-examination. Hence, accused is at liberty to argue the matter at the time of final hearing. Hence, pursis stands filed.

Dt. 04.09.2021

Sd/-
(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3273.
(Dt. 07/09/2021)

Perused the application and say.

Heard both the parties.

Occupation of the accused was mentioned on the basis of particulars mentioned in the chargesheet. Hence, any change in occupation, as contended can be taken care of at the time of judgment. Hence, in view of above observation, application stands rejected.

Dt. 07.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3298.
(Dt. 16/09/2021)

The accused No.2 has expressed that he is willing to examine himself in his defence. Hence, after his own evidence, this application can be considered. In the meantime, say of learned Special Public Prosecutor on this application be called.

Dt. 16.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3289-A.
(Dt. 16/09/2021)

P.E. granted till 22/9/2021.

Dt. 16.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3304
(Dt. 20/09/2021)

- 1] Perused the application and say.
- 2] Heard.
- 3] The documents sought to be produced include photocopies of the communication between Nagpur District Cooperative Bank and various offices/ companies. It is submitted on behalf of accused No.2 that he wants to rely upon these documents in support of his defence. Hence, the following order.

ORDER

Production of documents is hereby allowed.

Dt. 20.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3307
(Dt. 20/09/2021)

- 1] Perused the application and say. Heard.
- 2] The accused No.2 Ashok Choudhary has filed some documents vide list (Exh.3306). The documents include photocopies of the communication between Nagpur District Central Cooperative Bank and various offices. It is contended on behalf of accused No.2 that all the documents are in the custody of Nagpur District Central Cooperative Bank, Nagpur. Hence, he has prayed to call these documents from the record of the concerned bank.
- 3] As the photocopies of the documents are filed on record and as the accused wants to rely upon the same for his defence, it would be just, legal and proper to give him a chance to call these documents from the concerned bank.

Hence, the following order.

ORDER

- i] Issue witness summons to the Manager of Nagpur District Central Cooperative Bank, Nagpur on P.F. and payment of requisite *bhatta* thereby calling upon the Manager to produce the requisite documents either himself or through his official on 22/09/2021.
- ii] Summons be issued through State C.I.D., Nagpur and concerned is directed to effect the service of summons today itself.
- iii] Accused No.2 to submit extra copies of concerned documents alongwith list for forwarding the same with witness summons.

Dt. 20.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3308
(Dt. 22/09/2021)

1] A witness summons was issued to the Manager of Nagpur District Central Cooperative Bank for production of certain documents. Today, Mr. Rajesh Marotrao Vaidya, the officer of said bank appeared and filed the present application for production of three documents. These documents include the copy of seizure memo which is already on record vide Exh.1195 and two leave applications of accused No.2. It is further submitted on behalf of the bank that they were not able to locate some of the documents being about 20 years old. However, some of the documents sought have been seized by the investigating agency as per Seizure Memo (Exh.1195).

2] In view of the above facts, it would be appropriate to verify the office copies of documents (Leave applications of accused No.2) and the original documents are required to be returned to the bank. Hence, the following order.

ORDER

- i) A.S. to verify documents No.1 & 2 at List (Exh.3306) from the original documents brought by Bank Officer Mr. R.M.Vaidya.
- ii) After verification of the documents, the documents filed vide List (Exh.3309) be returned to the Bank Officer Mr. R.M.Vaidya on necessary acknowledgment.

Dt. 22.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3334
(Dt. 22/09/2021)

This is an application on behalf of accused No.4 to 6 for permission to cross-examine Ashok Choudhary (D.W.2). It is contended on their behalf that D.W.2 has produced some documents on record. Out of these documents, the documents (Exh.3326, 3330 to 3332) are concerning these accused and the same are adverse to the defence raised by them.

2] There can not be a doubt that co-accused can cross-examine another co-accused, if in defence, one accused has deposed adverse against the other. Therefore, to the extent such accused deposed against the co-accused, the co-accused can be considered as adverse party entitled for cross-examination to the said extent. In view of this legal position, the application deserves to be allowed as per the provisions of Section 137 of the Indian Evidence Act.

In the result, following order is hereby passed.

ORDER

Application is hereby allowed.

Dt. 22.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

E.M. - 3311

BEFORE THE COURT OF HON'BLE A.C.J.M, NAGPUR

R.C.C No. 147 of 2002 F.A:-22/9/21

State of Maharashtra

v. s

Sunil Kedar & ors.

APPLICATION FOR GRANT OF ADJOURNMENT

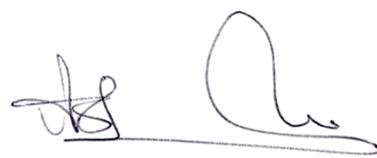
The Special Public Prosecutor most humbly begs to submit as under:-

- ① That, due to ill health, he is unable to attend the matter fixed on 22.9.21 for chief-examination, which may go ahead on 22/9/21.
- ② That, In view of the above narrated difficulty it is most respectfully prayed that this Hon'ble court may fix the matter on 23.09.2021 for cross-examination.

PRAYER: It is therefore, most humbly prayed that the matter may kindly be adjourned in the Interest of Justice

NAGPUR

DATED: 22/9/21


For SPL. P.P.


0
Perund the application. It is submitted
by Adv. Mr. Amed Kureshi that today the
Ed. spl. public prosecutor is not able to
attend the court owing to his health problems.
It is further submitted that he has
been instructed by Ed. spl. P.P. to submit
that prosecution has no objections to proceed
with the examination-in-chief of the defence
witness ~~and~~ today & the cross-examination
on behalf of prosecution would be
conducted tomorrow.

In view of the above submission,
adjournment for cross-examination of
witness is granted for today only.

S2000
22/9/24

ORDER BELOW EXH.No.3298
(Dt. 23/09/2021)

This is an application on behalf of accused No.2 to examine six witnesses mentioned in the list annexed with the application.

2] Application is opposed on behalf of prosecution on the ground that application is moved only to delay the trial.

3] Heard ld. Counsel for accused No.2 and ld. Spl. Public Prosecutor for State.

4] It is contended on behalf of accused that, during his tenure as the General Manager of Nagpur District Central Cooperative Bank, certain communications were made between NDCC, NABARD and Maharashtra State Cooperative Bank. These communications were in respect of providing a Financial Analyst to NDCC bank. It is further contended that on behalf of NDCC bank, certain communications were made to Home Trade Limited and other four companies for providing original government securities which were purchased through these companies. Present application is moved with a view to prove these communications by the concerned officers of the respective offices.

5] However, during the examination of accused No.2 Ashok Choudhary, all these communications have been marked. Hence, merely to prove these communications, there appears no need to call the witnesses mentioned in the list annexed with this application. Moreover, witness No.1 to 5 in the said list are from the same office i.e.

NABARD. Another witness at Sr.No.6 is from the Maharashtra State Cooperative Bank. The application does not disclose that these persons named in the list as witnesses are presently working on the same post and in the same office because the names and the respective posts of the witnesses mentioned in the said list are relating back to 20 years.

6] In the above circumstances, it would not be just, legal and proper to call the above witnesses merely to prove the alleged communications which are already marked in the evidence of accused No.2. Hence, the application is devoid of any merits.

7] In the result, following order is hereby passed.

ORDER

Application (Exh.3298) stands rejected.

Dt. 23.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3335
(Dt. 23/09/2021)

1] Accused No.2 to file affidavit whether he himself appeared before the Hon'ble Apex Court in the said case and whether the matter is stayed by the Hon'ble Apex Court.

2] Ld. Spl.P.P. to say.

Dt. 23.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3336.
(Dt. 23/09/2021)

P.E. granted for today only.

Dt. 23.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3337.
(Dt. 23/09/2021)

P.E. granted for today only.

Dt. 23.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3338.
(Dt. 23/09/2021)

P.E. granted for today only.

Dt. 23.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3340
(Dt. 24/09/2021)

1] This is an application on behalf of accused No.2 for grant of adjournment. It is pertinent to note that on the last date i.e. yesterday, accused No.2 examined himself in his defence and his cross-examination was conducted on behalf of prosecution. Thereafter, the matter was kept for final argument on 28/09/2021. After the date was given and the parties left the court at about 3.50 p.m., an application (Exh.3335) to adjourn the proceeding of this case till the final decision by Honourable Supreme Court in Transfer Petition (Criminal) No. 333-348 of 2021 is moved on behalf of this accused.

2] It is contended on behalf of accused No.2 that accused No.4 has moved the above transfer petition before the Honourable Supreme Court. Therefore, on this application (Exh.3335), this Court has directed the accused No.2 to file an affidavit clarifying whether he himself appeared before the Honourable Apex Court in the above case and whether any stay order was passed by the Honourable Apex Court.

3] However, accused No.2 did not comply with the said order. If his advocate was going to Delhi on the next day, he could have filed the affidavit immediately after the order was passed by this Court. Moreover, his application for adjournment is vague. On yesterday, he was present in the Court all the day, entered into the witness box and faced the cross-examination by prosecution. Not only this, but it seems that he has instructed his counsel to file the application (Exh.3335). Under such circumstances, his contention in the present application that he is unable to attend the Court today due

to illness appears to be misconceived.

4] The matter is time-bound one. It is already fixed for final argument. Under such circumstances, party moving any petition before the Court for stay of proceeding is expected to be prompt and ready in all respect i.e. for arguments and for filing supporting affidavit as directed by the Court. Hence, viewed by any angle, application is devoid of any merits. Accordingly, following order is hereby passed.

ORDER

Application (Exh.3340) stands rejected.

Dt. 24.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3335
(Dt. 24/09/2021)

1] This is an application on behalf of accused No.2 to stay the proceeding of this case.

2] It is contended on behalf of accused No.2, that accused No.4 moved a Transfer Petition (Criminal) No. 333-348 of 2021 before the Honourable Supreme Court. As the alleged Transfer Petition is contended to be moved by accused No.4 and not by this accused, this Court directed him to file an affidavit clarifying whether he himself appeared before the Honourable Supreme Court and whether the matter is stayed by the Honourable Apex Court. However, he did not comply with the order of the Court, rather filed an adjournment application (Exh.3340) which is rejected by passing a separate order by this Court. The matter is time-bound one. It is already fixed for final argument. Under such circumstances, party moving any petition before the Court for stay of proceeding is expected to be prompt and ready in all respect i.e. for hearing and for filing supporting affidavit as directed by the Court.

3] The prosecution has opposed the application on the ground that the proceedings of this case are not specifically stayed by the Honourable Apex Court and the application deserves to be rejected.

4] As the application for adjournment on behalf of accused No.2 came to be rejected and none appeared on his behalf, heard ld. Special Public Prosecutor.

5] The copy annexed with the application would disclose that the Honourable Supreme Court has passed an order to issue notices, returnable within six weeks. There is no order as regards the stay of this proceeding.

6] It is pertinent to note that the Transfer Petition moved by accused No.3 Sanjay Agrawal is already dismissed by the Honourable High Court, Bench at Bombay, in Criminal Application No. 628/2014 with Interim Application No. 63/2020 vide order dated 24/06/2021. While dismissing the said petition, the Honourable High Court has directed this Court to complete the trial within four months of the date of said order. The relevant portion of the operative order is as under:

“71. Thus we dispose of all these matters by passing the following order:

(i) All Criminal Applications are dismissed with costs, subject to clarification as contained in paragraph 70.

(ii) We direct that the respective Trial Courts dealing with respective criminal cases as mentioned in para No.1 to complete the trial of said cases expeditiously.

(ii) We direct that the trial in said C.C.No.147/2002 (Crime No.101/2002 registered with Ganesh Peth police station, Nagpur) be completed by passing final Judgment and Order within maximum period of four months from today. We make it clear that we are granting maximum four months time in view of Covid-19 restrictions. With these directions although we are

**State vs. Sunil Kedar and ors
disposing of the PIL No.15/2020, however, we direct
that the learned Presiding Officer dealing with said
criminal case shall file monthly report of progress of
trial of C.C.No.147 of 2002 to this Court.**

**(iii) We make it clear that after completion of trial in
said C.C.No.147/2002 (Crime No. 101/2002 registered
with Ganesh Peth police station, Nagpur) against other
accused except the Applicant, the trial against
Applicant be commenced by conducting the same
expeditiously and preferably on day to day basis and
the same be completed within a period of four months
after commencement of trial against present Applicant.**

(iv) In view of dismissal of all Criminal Applications,
Interim Application made therein do not survive and
disposed of as such.”

7] Prior to the above order, the Honourable High Court,
Bench at Nagpur directed this Court to conduct the trial of this case on
day to day basis vide this order dated 7.11.2019 passed in PIL
No.58/2019 (Omprakash Bhaurao Kamdi & Ors Vs. State of
Maharashtra & Ors.). Thus, as per the said order, this court is
functioning as a Dedicated Court for the trial of this case. Since then,
no stay order has been passed by any of the Honourable Higher Courts.

8] Therefore, as directed by Honourable High Court vide
order dated 24/06/2021 in Criminal Application No. 628/2014, Sanjay
Agrawal Vs. Omprakash Bhaurao Kamdi & Ors and Civil Public Interest
Litigation No. 15/2020 (Omprakash Bhaurao Kamdi & Ors Vs. The
State of Maharashtra & Ors), this Court has to decide the case within

four months w.e.f. 24/06/2021. It is needless to say that this order is binding not only on this Court but also on the parties concern. Out of this time limit of four months, three months have already been lapsed. The matter is now closed for final argument and fixed on 28/09/2021. Hence, keeping the trial in abeyance as prayed for, would amount to breach of directions of the Honourable High Court to conduct the trial on day to day basis and to dispose of the same within the prescribed time frame. Thus, the prayer to stay the matter is directly in breach of the directions of the Honourable High Court issued time to time for expediting the trial. In the result, following order is hereby passed.

ORDER

Application (Exh.3335) stands rejected.

Dt. 24.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3339
(Dt. 24/09/2021)

1] This is an application on behalf of accused No.4 Ketan Seth praying therein to give long adjournment or to stay further proceeding till the decision of Transfer Petition pending before the Honourable Supreme Court. It is further contended that he has filed the Transfer Petition (Criminal) bearing No.333-348 of 2021. In support of his submission, reliance is placed upon the order dated 23.3.2021 passed by Honourable Apex Court in **Special Leave to Appeal [C] No.10937/2019, Justice for Right Foundation Vs. Union of India and Others.**

2] The prosecution has opposed the application on the ground that the proceedings of this case are not stayed by the Honourable Apex Court and the application deserves to be rejected.

3] Heard Adv. Mr. Girish Purohit for accused No.4 and ld. Special Public Prosecutor for State.

4] The copy (Annexure-A) annexed with the application would disclose that the Honourable Supreme Court has passed an order to issue notices, returnable within six weeks. There is no order as regards the stay of this proceeding.

5] The ld. Counsel for accused No.4 submit that issuance of notice by Honourable Apex Court amounts to the stay of proceeding before this Court. In support, he has relied upon the case of '**Justice for Right Foundation Vs. Union of India & Ors.**' (*cited supra*). He has

also invited the attention of this Court to some pages which according to him are downloaded from the website of Live Law. According to him, as per said commentary on the website of Live Law, the Honourable Supreme Court has observed that, “Normally when notice issued in transfer, it is assumed that it is stayed.”

6] Carefully gone the order of Honourable Apex Court in the case of '**Justice for Right Foundation Vs. Union of India & Ors.**' (cited supra). In the said case, the Honourable Apex Court has stayed the matters pending before the Honourable High Court of Punjab and Haryana by passing the specific order to that effect. However, no such order is passed in the petition alleged to have filed by this accused No.4. Hence, ld. Counsel for accused No.4 can not take the aid of aforesaid citation to putforth his contention in the present set of facts.

7] It is pertinent to note that the Transfer Petition moved by accused No.3 Sanjay Agrawal is already dismissed by the Honourable High Court, Bench at Bombay, in Criminal Application No. 628/2014 with Interim Application No. 63/2020 vide order dated 24/06/2021. While dismissing the said petition, the Honourable High Court has directed this Court to complete the trial within four months of the date of said order. The relevant portion of the operative order is as under:

“71. Thus we dispose of all these matters by passing the following order:

- (i) All Criminal Applications are dismissed with costs, subject to clarification as contained in paragraph 70.
- (ii) We direct that the respective Trial Courts dealing with respective criminal cases as mentioned in para No.1

to complete the trial of said cases expeditiously.

(ii) We direct that the trial in said C.C.No.147/2002 (Crime No.101/2002 registered with Ganesh Peth police station, Nagpur) be completed by passing final Judgment and Order within maximum period of four months from today. We make it clear that we are granting maximum four months time in view of Covid-19 restrictions. With these directions although we are disposing of the PIL No.15/2020, however, we direct that the learned Presiding Officer dealing with said criminal case shall file monthly report of progress of trial of C.C.No.147 of 2002 to this Court.

(iii) We make it clear that after completion of trial in said C.C.No.147/2002 (Crime No. 101/2002 registered with Ganesh Peth police station, Nagpur) against other accused except the Applicant, the trial against Applicant be commenced by conducting the same expeditiously and preferably on day to day basis and the same be completed within a period of four months after commencement of trial against present Applicant.

(iv) In view of dismissal of all Criminal Applications, Interim Application made therein do not survive and disposed of as such.”

8] Prior to the above order, the Honourable High Court, Bench at Nagpur directed this Court to conduct the trial of this case on day to day basis vide this order dated 7.11.2019 passed in PIL No.58/2019 (Omprakash Bhaurao Kamdi & Ors Vs. State of Maharashtra & Ors.). Thus, as per the said order, this court is

functioning as a Dedicated Court for the trial of this case. Since then, no stay order has been passed by any of the Honourable Higher Courts.

9] Therefore, as directed by Honourable High Court vide order dated 24/06/2021 in Criminal Application No. 628/2014, Sanjay Agrawal Vs. Omprakash Bhaurao Kamdi & Ors and Civil Public Interest Litigation No. 15/2020 (Omprakash Bhaurao Kamdi & Ors Vs. The State of Maharashtra & Ors), this Court has to decide the case within four months w.e.f. 24/06/2021. It is needless to say that this order is binding not only on this Court but also on the parties concern. Out of this time limit of four months, three months have already been lapsed. The matter is now closed for final argument and fixed on 28/09/2021. Hence, keeping the trial in abeyance as prayed for, would amount to breach of directions of the Honourable High Court to conduct the trial on day to day basis and to dispose of the same within the prescribed time frame. Thus, the prayer to stay the matter is directly in breach of the directions of the Honourable High Court issued time to time for expediting the trial. In the result, following order is hereby passed.

ORDER

Application (Exh.3339) stands rejected.

Dt. 24.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

Order contd..../-

ORDER BELOW EXH.No.3341
(Dt. 28/09/2021)

1] The case is fixed for final argument. However, this application for grant of adjournment is moved on behalf of prosecution on the ground that ld. Special Public Prosecutor is not feeling well. It is further contended that some time is also required to ld. Spl. Public Prosecutor for preparing the argument.

2] It is pertinent to note that the matter is time-bound. Therefore, it is expected from the prosecution that without any further delay, the final argument should be concluded.

In the above backdrop, following order is hereby passed.

ORDER

- (i) Adjournment granted for today only.
- (ii) Prosecution to submit oral (as well as Written Notes of Argument), if any, on 30/09/2021.

Dt. 28.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3342.
(Dt. 28/09/2021)

P.E. granted for today only.

Dt. 28.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3343.
(Dt. 28/09/2021)

P.E. granted for today only.

Dt. 28.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3344.
(Dt. 28/09/2021)

P.E. granted for today only.

Dt. 28.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3345.
(Dt. 28/09/2021)

P.E. granted for today only.

Dt. 28.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3347
(Dt. 30/09/2021)

1] This is yet another application as per Section 301 of Code of Criminal Procedure for assist to prosecution. Prior to this, four applications with similar prayer were filed by four different persons contending that they are the members of Nagpur District Central Co-operative Bank. All these applications are already rejected on merits.

2] Say of prosecution was called for. However, none appeared for prosecution though called repeatedly. Hence, heard ld. Counsel for applicant on merits.

3] It is contended on behalf of applicant Omprakash Kamadi, that he is the member of Nagpur District Central Cooperative Bank. He had preferred a Public Interest Litigation before the Honourable High Court for recovery of misappropriated amount and for expeditious disposal of the present trial. In the said Public Interest Litigation, the Honourable High Court has issued various directions and as per these directions, the case is being tried in this Dedicated Court.

4] Alongwith present application, an additional affidavit is filed. It is alleged in the said affidavit that the learned Special Public Prosecutor presently working in this Court is having a clear nexus with the accused persons. There is an established connection of him with the accused. This applicant believes that there is a question

intended to be raised about the standing, capabilities and the wit of newly appointed Special Public Prosecutor.

5] It is argued on behalf of the applicant that since the appointment of present Special Public Prosecutor, the trial is being taken up in an extremely different direction which is against the interest of public at large as well as the State. To buttress his argument, the learned counsel for applicant has invited the attention of this Court on the order passed below adjournment application (Exh.3341). According to him, there is no provision to file Written Notes of Arguments by learned Special Public Prosecutor and the Court can not direct him to file Written Notes of Arguments only. The tenor of such contentions appears to be, that the said order passed by this Court is an instance of trial being proceeded in an extremely different direction.

6] However, the order passed below adjournment application (Exh.3341) does not contain the direction to restrain the learned Special Public Prosecutor from making oral arguments.

7] While arguing the present application, it is submitted on behalf of applicant that, if this application is allowed, the applicant will not take much time of the Court. He would take half an hour for oral arguments and then he will submit the Written Notes of Arguments.

8] While seeking adjournment as per application (Exh.3341), the similar contentions were made on behalf of learned Special Public Prosecutor. He had orally submitted to the Court that

he would prefer oral argument and then he will file the Written Notes of Arguments. Therefore, while granting adjournment application, the Court observed that the matter is time-bound, therefore the learned Special Public Prosecutor should submit his oral, as well as Written Notes of Arguments, if any on 30/09/2021. This direction was given with a view that if the learned Special Public Prosecutor was intending to file the Written Notes of Arguments, he should file the same at the time of advancing oral arguments itself. This direction was issued to avoid any further delay in submitting the written notes of argument, if any. By no stretch of imagination such an order can be termed as an involvement of the Court to take the prosecution in an extremely different direction.

9] According to applicant, the trial has been taken up in an extremely different direction. If it is so, then further question would arise whether such trial which is being taken up in an extremely different direction can be corrected or everything would be set right merely if this applicant is allowed to argue. A torn hole can be patched but not the entirely broken sky. Within the ambit of Section 311 of Code of Criminal Procedure and Section 165 of the Evidence Act, the Court has to see that the truth should come on the record. However, the Court can not replace itself in the complete character of Public Prosecutor, if according to applicant the case is completely taken up to different direction because the learned Special Public Prosecutor is not suitable. The Court can not completely transform itself into the character of defence counsel because the defence is bent upon to bring on record the incriminating material. Similarly, for the alleged apprehension of the applicant, he can not be placed in the character of *de facto*

complainant or the *de facto* victim. For instance, if the patient does not follow the schedule and doses of the medicine as directed by Doctor or consumes expired drug, then the complications invited by the patient himself can not be attributed to the Doctor.

10] The learned Special Public Prosecutor is appointed before the months together. If the applicant was having any grievance in that respect, the same could have been put up before the concerned department. He could have conveyed his grievances to the Bank of whose membership he is claiming. He could have convinced the Bank to file such application for permission to assist the prosecution. At the most, Bank could have been considered as *de facto* victim. The application moved by such *de facto* victim could have been considered under Section 301(2) R/W Section 24(8) of Code of Criminal Procedure. A number of crimes are committed against the society. By that sense, it can be said that every citizen of the society is a victim in remote sense. That doesn't mean that every such citizen of the society coming to the Court can be allowed under Section 301(2) read with Section 24(8) of the Code of Criminal Procedure to assist the prosecution.

11] Our legal system does not permit a Court to decide the fate of trial merely on the basis of niceties of arguments advanced before it. The judgment is to be delivered or the order is to be passed on the basis of record of the case and not merely on the basis of arguments. There is a well-settled legal mechanism which mandates the Court to independently assess the material available on record. The law does not permit a Court to favour a party merely on the basis, that such party has argued more fantastically. Therefore,

mere permission to argue would not redirect the case to its alleged intended direction, if according to applicant the trial has been taken to extremely different direction.

12] To err is human and the judges are also the human beings. There is no presumption that every order passed by the Trial Court Judge is correct. Any party aggrieved by the order has a remedy to lawfully challenge the same. However, no one can be allowed to jump on the conclusion to agitate that by this and that order of the Court, the trial has been taken up in an extremely different direction.

13] So far as grievance of the applicant about the learned Special Public Prosecutor is concerned, this Court is not the appointing authority for appointment of Special Public Prosecutor. The party engaging the counsel has to assess his suitability.

14] Now, it is necessary to consider whether applicant has a locus to move such application. It is the contention on his behalf that he has filed the Public Interest Litigation and the Honourable High Court has issued directions therein for expeditious trial of this case. In this sense, he is the applicant who has set the criminal law in motion and therefore for the sake of reliefs prayed for, his status is that of the complainant.

15] The learned counsel for applicant has invited the attention of this Court to the order dated 23/12/2019 passed by the Honourable High Court in P.I.L.No. 25/20214, **Omprakash Bhaurao Kamdi and Others Vs. State and Others**. According to

him, he was granted liberty to take such steps *as are permissible in law* at an appropriate stage. According to him, the present application is moved out of such liberty granted by the Honourable High Court.

16] As the applicant was granted liberty to take such steps *as are permissible in law*, it is necessary to see whether such an application by person like him is permissible in law.

17] On this aspect, the ld. Counsel for applicant had relied upon the case of **Rekha Murarka Vs. State of West Bengal and Anr.** reported in **(2020)2 Supreme Court Cases 474.** The ld. Counsel for applicant has invited the attention of this Court on Para No. 11.1 to 11.5 of the said judgment. While explaining the scope of the term 'assist' in Proviso to Section 24(8), the Honourable Apex Court has observed, '*it implies that the victim's counsel is only intended to have a secondary role qua the Public Prosecutor.*' It is further observed that, the victim's counsel if finds that the Public Prosecutor has not examined the witnesses properly and not incorporated his suggestions, then he may bring certain questions to the notice of the Court and if there is merit in such contentions then the Judge may take action by invoking the powers under Section 311 of the Code of Criminal Procedure or Section 165 of the Evidence Act.

18] The learned Counsel for applicant further relied upon the case of **Aamir Hamja Sheikh and Ors Vs. State of Maharashtra and Anr** reported in **(2019)8 Supreme Court Cases 387.** In Para No.7 of the said judgment, the Honourable Apex Court has observed

that, 'in terms of Section 301 of the Code, any private person may instruct the pleader to act in the direction of the Public Prosecutor or Assist Public Prosecutor in any trial before any Court and to submit Written Notes of Arguments after the close of evidence.'

19] For similar such contentions, learned counsel for applicant has relied upon the case of Mina Lalita Barua Vs. State of Orissa and Ors reported in (2013)16 Supreme Court Cases 173 and J.K. International Vs. State (Govt. of NCT of Delhi) and Ors.

20] In the case of **Rekha Murarka, Mina Lalita Barua and J.K. International** (*cited supra*), the applications for assist to prosecution were made by the persons who had lodged the complaint. Thus, the complainants in the respective cases have moved the applications for permission to assist the prosecution.

21] It is respectfully submitted that from the above case laws, it is clear that a victim/ complainant in the criminal case can be permitted to assist the prosecution within the limitations prescribed therein.

22] In the case at hand, though the present application is titled under Section 301 of the Code of Criminal Procedure, the same is required to be considered alongwith the Proviso to Section 24(8) of the Code of Criminal Procedure. It is clear from the joint reading of Section 301 and the Proviso to Section 24(8) that the two provisions are mutually complementary.

23] Now, it is necessary to assess the facts of the present

case. Admittedly, present applicant is not the complainant in the present case and the criminal law was not set in motion at his instance. Even he is not cited as a witness in the case. The complaint in this case was lodged by the Officer of Cooperative Department. Therefore, the word '*any private person*' appearing in Section 301(2) has to be read in conscience with the term '*victim*' appearing in proviso to Section 24(8) of the Code of Criminal Procedure. It is clear from the citations (*cited supra*) relied upon by the learned counsel for applicant that the complainants are considered as the victims for the purpose of section 301(2) of the Code of Criminal Procedure.

24] This Court is of the considered view that the term '*victim*' appearing in the said section co-relates to the immediate actual victim on whose behalf the criminal law was set in motion or who is the sufferer at first instance. It doesn't include the remote victims like the present applicant. Mere fact that this applicant was petitioner in a Public Interest Litigation filed for expeditious trial of this case doesn't put him in the place of *de facto* complainant or the *de facto* victim (the Nagpur District Central Cooperative Bank) which according to prosecution had sustained the loss.

25] It is respectfully submitted that the entitlement of a person to file a Public Interest Litigation stands on the different footing. Hence, at the cost of repetition, it is necessary to mention that, applicant in such PIL can not *ipso facto* take the place of *de facto* complainant or *de facto* victim as envisaged under the scheme of Section 301 read with Section 24(8) of the Code of Criminal Procedure.

26] In view of the above observation, this Court is of the considered view, that this applicant has no *locus standi* to prefer such application for assisting the prosecution. Such prayer in the present application is not in accordance with law. Hence, it is most respectfully submitted that the learned counsel for applicant can not take the aid of aforesaid citations to put forth his contentions in the present set of facts.

27] In the result, the application is devoid of any merits. Hence, the following order :-

ORDER

Application (Exh.3347) hereby stands rejected.

Dt. 30.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3349.
(Dt. 30/09/2021)

Adjournment granted for today only.

Dt. 30.09.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar & Ors

ORDER BELOW EXH.No.1
(Dt. 4/10/2021)

Today the ld. Special Public Prosecutor has concluded his final argument on behalf of prosecution. Accused No.1 moved an application for adjournment and case is kept for his argument on 7.10.2021. Likewise, the matter is kept for argument of accused No.2 on 5.10.2021. It is orally submitted on behalf of accused No.4 to 7 that they will conclude their argument on 7.10.2021. Hence, in view of submissions on behalf of the ld. Counsels for respective accused persons, the matter is kept for final argument of defence since 5.10.2021, as above.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3350.
(Dt. 04/10/2021)

P.E. granted for today only.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3351.
(Dt. 04/10/2021)

P.E. granted for today only.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar and ors

ORDER BELOW EXH.No.3352.
(Dt. 04/10/2021)

P.E. granted for today only.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3353
(Dt. 04/10/2021)

1] This is an application for adjournment on behalf of accused No.1. It is contended in the application that Adv. Mr. Chavan for accused No.1 had undergone a major surgery and admitted to the hospital at Indore. It is further contended that he is unable to attend the Court and the adjournment has been sought upto 11.10.2021.

2] It is the matter of record that this is the time-bound matter and the adjournments as such can not conclude the trial within a time frame as directed by the Honourable High Court. It is pertinent to note that Senior Counsel Mr. Subodh Dharmadhikari is also representing the accused. It is contended on behalf of accused that Adv. Mr. Chavan can only brief Adv. Mr. Dharmadhikari.

3] Be that as it may. The sufficient time has been already lapsed for preparing the arguments by the concerned parties. Therefore, such long adjournments can not be justified for the given reason. An adjournment for a day or two at the most can only be given for further preparation, if any, by ld. Counsel for accused No.1. Hence, the following order.

ORDER

Time granted to accused No.1 for argument till
7.10.2021, as a last chance.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar & Ors

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State vs. Sunil Kedar & Ors

ORDER BELOW EXH.3354
(Dt. 4/10/2021)

This is an application on behalf of accused No.2 for grant of adjournment. It is contended that ld. Counsel for accused No.2 is busy before the Honourable High Court and therefore, he is unable to attend the Court.

Hence, the following order.

ORDER

- 1] Adjournment granted for today only as a last chance.
- 2] Ld. counsel for accused No.2 to argue the matter on 5.10.2021, without fail.

Dt. 04.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3355
(Dt. 5/10/2021)

- 1] Seen and heard.
- 2] This pursis is filed on behalf of accused No.4. It is contended that in **Transfer Petition (Criminal) bearing No. 333-348/2021, Ketan Kantilal Seth Vs. The State of Gujarat etc.**, the Honourable Apex Court has passed an interim order of stay in today's hearing. It is submitted that the copy of order will be filed in due course.
- 3] Today the matter is fixed for final arguments. However, it is contended that the matter has been stayed and this information was communicated telephonically to the concerned accused. Hence, the case needs to be adjourned today with following directions to accused No.4.

ORDER

- i) Accused No.4 to submit the copy of order and should also file an affidavit about the stay of this proceeding as per the order of Honourable Apex Court by 11.10.2021.
- ii) Prosecution to clear their stand in writing about the contents of this pursis.

Dt. 05.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar & Ors

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1
(Dt. 7/10/2021)

A pursis (Exh.3356) has been filed on behalf of accused No.4 thereby informing that the proceeding in this case has been stayed as per the order of Honourable Apex Court passed on 5/10/2021. Alongwith pursis, a copy of order of the Honourable Apex Court is filed. In view of the same, following order is hereby passed.

ORDER

- i) Accused No.4 to submit Status Report about the further extension of stay or otherwise, on 15/11/2021.
- ii) It is further directed to submit such Status Report thereafter on every 15 days or whenever the same is extended or otherwise, as decided by the Honourable Apex Court.
- iii) Prosecution is also directed to verify and to submit the status of the case as above, time to time.

Dt. 07.10.2021

(S.R.Totla)
2nd Addl. Chief Judicial Magistrate,
Nagpur

R.C.C.No.147/2002
State vs. Sunil Kedar & Ors

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3358
(Dt. 06/06/2022)

Personal exemption is granted till 13/06/2022.

Dt. 06.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3359
(Dt. 06/06/2022)

Personal exemption is granted till 13/06/2022.

Dt. 06.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3360
(Dt. 06/06/2022)

Personal exemption is granted till 13/06/2022.

Dt. 06.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3361
(Dt. 06/06/2022)

Personal exemption is granted till 13/06/2022.

Dt. 06.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3362
(Dt. 06/06/2022)

Perused the application. Say not filed on behalf of prosecution.

2] Heard learned counsels for the respective accused. It is submitted by them that they would argue the matter on 14.6.2022, without fail.

3] Hence, as of last opportunity, the application is allowed. Adjournment is granted for today only. The learned counsels for all the respective accused should argue the matter on 14.6.2022, without fail.

Dt. 06.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3363
(Dt. 08/06/2022)

Personal exemption is granted till 13/06/2022.

Dt. 08.06.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)



श. - 3366

**IN THE COURT OF HON'BLE ADDITIONAL CHIEF
JUDICIAL MAGISTRATE AT NAGPUR**

RCC NO. 3030147/2002

State of Maharashtra

//Versus//

Sunil Kedar and others

APPLICATION FOR GRANT OF ADJOURNMENT

The counsel for accused no. 1 most humbly and respectfully submits as under;

1. That the matter has proceeded before this Hon'ble court on a day to day basis until the stage of final arguments in October, 2021. On 5/10/2021, the Hon'ble Supreme Court vide its order in Transfer Petition (criminal) no. 333/2021 directed that the present matter be stayed until further orders. The stay order was thereafter vacated by the Hon'ble supreme court vide its order dated 13/05/2022 and the petition is likely

to be again listed on 22/07/2022. It is submitted that the hon'ble supreme court has directed that final arguments be concluded and judgement is to be passed subject to further directions.

2. Writ issued by the Hon'ble supreme court was received during summer vacations on 25/05/2022

by this Hon'ble Court and the case was fixed on

No objection
for granting
time as prayed


S. L. P. Rao
14/6/2022

~~Exemption of~~
Adjournment granted
for short time.
14.6.2022

06/06/2022 for final arguments. At the request of the present applicant, the matter thereafter came to be fixed for today.

3. That the lead counsel for accused no. 1 in the present trial, Sr. Advocate Shri. Subodh Dharmadhikari was out of station during the summer vacations and could not be instructed by the accused to finally argue the matter. As the record in the present case is voluminous and spans over thousands of pages, the counsel has not been able to prepare in order to argue the matter.
4. During the course of trial, adjournments by the present applicant have seldom been sought and the applicant has never sought for accommodation thereafter. It is submitted that the purpose of the present application is not to delay or frustrate the ends of justice but only to prepare the matter thoroughly and afford a fair opportunity for the accused to present its case in a befitting manner.
5. Due to this genuine and bona fide difficulty, the present application stands necessitated before this

hon'ble court. It is submitted that great prejudice would be caused in the event this hon'ble court does not grant time to the applicant to argue the matter finally.

6. The counsel will argue the matter in the week proceeding 27/6/2022 without fail.

Hence this application

PRAYER: Due to the aforementioned reasons, it is most humbly and respectfully prayed that this hon'ble court be pleased to allow the application and adjourn the matter in the interest of justice.

NAGPUR
DATED:14/06/2022

1


COUNSEL FOR ACCUSED NO. 1
Adv. Devendra V. Chauhan.



एन. - 3364

A IN THE COURT OF ADDITIONAL CHIEF
JUDICIAL MAGISTRATE, NAGPUR

R.C.C. no. 3030147/2002

State of Maharashtra

v.

Sunil Kedar and
Others

Application for grant of exemption from
personal appearance

The counsel for accused no. 1 most humbly submits as under.

1. That the matter is fixed for today.
2. It is submitted that the accused is a cabinet minister and is out of station due to official work and hence cannot mark its presence before this honorable court and craves for exemption from personal appearance.
3. The ~~counsel~~ accused is ready to comply with any conditions as may be deemed fit by this honorable court.

Hence this application

Prayer: It is most humbly and respectfully prayed that the accused be exempted from ~~the~~ personal appearance in the interest of Justice.

Nagpur
14/6/2022


C.F. Accused no. 1
Adv. N.R. Jadhav

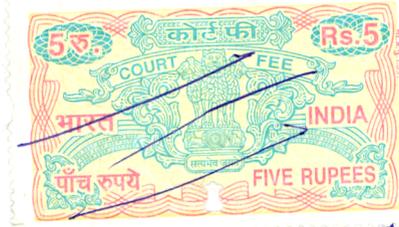
R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER
(Dt. 14/06/2022)

Personal exemption is granted for today only.

Dt. 14.06.2022

14.6.2022
I/c 3rd Jt. Civil Judge Sr. Dn.
& A.C.J.M., Nagpur



एच. 3368

IN THE COURT OF HON'BLE A.C.M. ; NAGPUR

S.T./Spl. Case/R.C.C. No. 147/2002

State V/s. Sunil Kedar

Accused: Suresh Peshkar

APPLICATION FOR GRANT OF EXEMPTION FROM PERSONAL APPEARANCE FOR ACCUSED NO. 11 FOR TODAY

The Counsel for the Accused begs to submit as under :-

1) That accused No.....11..... is/are unable to attend the Court today as he/she/they is/are not well & suffering from viral fever

2) That, accused shall remain present on next date.

Hence this application.

PRAYE) It is therefore, prayed that this Hon'ble Court be pleased to grant exemption from personal appearance for accused No. 11 for today in the interest of justice.

NAGPUR
DATE: 14/6/2022

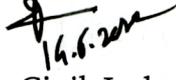
Prilind Chauras
C.F. ACCUSED
(C.H. Jaltare)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER
(Dt. 14/06/2022)

Personal exemption is granted for today only.

Dt. 14.06.2022


I/c 3rd Jt. Civil Judge Sr. Dn.
& A.C.J.M., Nagpur

COMMON ORDER BELOW EXH.No.3369 & 3374

(Dt. 15/06/2022)

Accused No.1, 4, 5, 6, 8, 9 & 11 have moved application (Exh.3369) for grant of adjournment. Likewise, accused No.2 has filed application (Exh.3374) for grant of adjournment.

2] It is pertinent to note that Honourable Supreme Court has directed this court to conclude the hearing of final arguments. In spite of the same, repeated applications for adjournment have been moved on one or the other ground. In this background, it is necessary to fix the final timetable for arguments, if any, of the accused, else the case would be proceeded ahead in accordance with law.

3] In view of the above observations, following order is hereby passed.

ORDER

The accused to advance their arguments, if any, as directed below without seeking any further adjournment on any ground whatsoever.

Sr.No.	Name of accused	Date fixed for arguments
1]	Sunil Kedar	27/06/2022
2]	Ashok Choudhary	28/06/2022
3]	Ketan Seth, Mahendra Agrawal and Shriprakash Potdar	29/06/2022 & 30/06/2022
4]	Subodh Bhandari, Nandkishor Trivedi and Suresh Peshkar	01/07/2022 & 02/07/2022

Dt. 15.06.2022



RCC 147-2002 (Common Order
below Exh.3369&3374, dt.15-6-22)
Digitally signed by SHEKHAR
RAMNATHJI TOTLA
Location: Nagpur
Date: 2022.06.15 17:02:00 +0530

(S. R. Totla)

3rd Jt. Civil Judge Sr. Dn.
& A.C.J.M., Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3370
(Dt. 15/06/2022)

Personal exemption is granted till 27/06/2022.

Dt. 15.06.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3373
(Dt. 15/06/2022)

Personal exemption is granted till 01/07/2022.

Dt. 15.06.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3371
(Dt. 15/06/2022)

Personal exemption is granted till 29/06/2022.

Dt. 15.06.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3372
(Dt. 15/06/2022)

Personal exemption is granted till 01/07/2022.

Dt. 15.06.2022



(S.R.Totla)

3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.3377
(Dt. 18/06/2022)

Perused the application and say. Heard Advocate Shri Pandit for the applicant.

2] This is an application for permission to inspect the record of the case. It is submitted that applicant wants to peruse the record as he is willing to seek necessary reliefs before the Honourable High Court.

3] Application is opposed on the ground that this applicant is not a party to the proceeding. There is no provision in law to enable the third party for perusal of the record as such.

4] Admittedly, this applicant is not party to the proceeding in respect of which the present application is moved. Record of the case is voluminous and runs in thousands of pages. The application is patently vague and does not specify as to for which exact purpose the applicant wants to inspect the record and which exact reliefs he wants to seek from the Honourable High Court. Moreover, the application does not comply with the formalities mentioned in Para 5 of Chapter XX of the Criminal Manual. As such, applicant is not a fit person in view of provisions of Para 8 of Chapter XX of Criminal Manual for allowing the inspection of voluminous record as prayed for. Accordingly, the application is devoid of any merits.

In the result, following order is hereby passed.

ORDER

Application stands rejected.

Dt. 18.06.2022

RCC 147-2002 (Order below
Exh. 3377, dt:18-6-22)
Digitally signed by
SHEKHAR RAMNATHJI
TOTLA
Location: Nagpur
Date: 2022.06.18 15:59:32
+0530

(S. R. Totla)
3rd Jt. Civil Judge Sr. Dn.
& A.C.J.M., Nagpur

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

Certificate

I affirm that the contents of this PDF Order
are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

ORDER BELOW EXH.No.1
(Dt. 27/06/2022)

Today the matter is fixed for final argument on behalf of accused No.1. Ld. Senior Counsel Adv. Shri. Subodh Dharmadhikari argued on his behalf till 1.15 p.m. Thereafter, he has requested the court to adjourn the matter till tomorrow and assured that he will conclude arguments tomorrow itself. Hence, matter be adjourned for today only. Case be put up for arguments on behalf of accused No.1 and 2 on 28.6.2022.

Dt. 27.06.2022



RCC 147/2002 (Order below Exh.1,
dt.27-6-22)
Digitally signed by SHEKHAR
RAMNATHJI TOTLA
Location: Nagpur
Date: 2022.06.27 16:08:35 +0530

(S. R. Totla)
3rd Jt. Civil Judge Sr. Dn.
& A.C.J.M., Nagpur

Certificate

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Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.No.3380
(Dt. 28/06/2022)

Personal exemption is granted till 04/07/2022.

Dt. 28.06.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade II)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3392
(Dt. 14/07/2022)

Personal exemption is granted till 25/07/2022.

Dt. 14.07.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3393
(Dt. 14/07/2022)

Personal exemption is granted till 25/07/2022.

Dt. 14.07.2022



RCSNo.147-2002 (Order
below Exh.3393, dt.14-7-22)
Digitally signed by SHEKHAR
RAMNATHJI TOTLA
Location: Nagpur
Date: 2022.07.15 12:24:45
+0530

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
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Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3394
(Dt. 14/07/2022)

Personal exemption is granted till 25/07/2022.

Dt. 14.07.2022



(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3397
(Dt. 26/07/2022)

Personal exemption is granted till 02/08/2022.

Dt. 26.07.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3396
(Dt. 26/07/2022)

Personal exemption is granted till 02/08/2022.

Dt. 26.07.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
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Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3398
(Dt. 06/08/2022)

Personal exemption is granted till 17/08/2022.

Dt. 06.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3399
(Dt. 06/08/2022)

Personal exemption is granted till 17/08/2022.

Dt. 06.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3400
(Dt. 06/08/2022)

Personal exemption is granted till 17/08/2022.

Dt. 06.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3401
(Dt. 17/08/2022)

Personal exemption is granted till 29/08/2022.

Dt. 17.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3402
(Dt. 17/08/2022)

Personal exemption is granted till 29/08/2022.

Dt. 17.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

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word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3404
(Dt. 29/08/2022)

Personal exemption is granted till 12/09/2022.

Dt. 29.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.3403
(Dt. 29/08/2022)

Personal exemption is granted till 12/09/2022.

Dt. 29.08.2022

(S.R.Totla)
3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same
word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

R.C.C.No.147/2002
State-Vs-Sunil Kedar & Ors

ORDER BELOW EXH.1
(Dt. 15/10/2022)

In view of order of Honourable Supreme Court passed on 9.9.2022 in Transfer Petition (Criminal) Nos. 333-348 of 2021, Ketan Kantilal Seth Vs. State of Gujrat & Ors, the record and proceedings of this case be transmitted to the Honourable Principal Judge, Bombay City Civil & Sessions Court, Fort, Mumbai – 400032.

Digitally signed
by SHEKHAR
RAMNATHJI
TOTLA
Location: Nagpur
Date: 2022.10.15
14:33:35 +0530

Dt. 15.10.2022

(S.R.Totla)

3rd Jt. Civil Judge Sr. Dn. & A.C.J.M.,
Nagpur

Certificate

I affirm that the contents of this PDF Order are same word to word, as per original Order.

Name of Stenographer :- Ku. G.A. Joshi (Grade I)

RCC No. 147/2002

State of Mah..

.Vs..

Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 26.10.2023)

See the order dt. 16.10.2023 of Hon'ble Supreme Court passed in M.A.No.1987/2023 IN M.A. No.1935/2022 IN TRANSFER PETITION (CRL.) NOS. 333-348 OF 2021.

02. The Hon'ble Supreme Court vide above mentioned order has directed this Court to commence the arguments in this case and conclude the hearing on or before 04.11.2023. Hence, the prosecution and defence side are directed to scrupulously follow the given time frame and complete their arguments on or before 04.11.2023. Both sides are also at liberty to file written notes of arguments, if any.

3. It is further directed to both sides that henceforth, till further orders, hearing of this matter will be taken up on day to day basis.

4. All concerned to take note of above directions.

Nagpur.

Date : 26.10.2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : Sau. V.S. Barde(Grade-II)

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : Sau. V. S. Barde(Grade-II)

RCC No. 147/2002

State of Mah. ..Vs.. Sunil Kedar & ors.

COMMON ORDER PASSED BELOW APPLICATIONS
(EXH.3420 AND 3421)
(Passed on 26.10.2023)

Both these applications are filed by the learned Spl.PP seeking permission to submit final arguments through V.C., to keep further hearing of this matter after 01.11.2023 by relaxing order of day to day hearing passed today below Exh.1 and to allow Dy.S.P Vinod Ade and P.H.C. B.No.586 to attend the hearing physically on behalf of the prosecution.

2. It is stated that learned Spl.PP met with an accident on 11.10.2023 and sustained several injuries to legs, hands and face. He is from Nashik. It will not be possible for him to travel long distance i.e. from Nashik to Nagpur. It is further stated that he has also been appointed as Spl.PP in Special Sessions Trial No.5/2014, 14/2012 and 5/2015 pending before the Hon'ble Sessions Court No.55 at Mumbai, wherein also the Hon'ble Supreme Court has expedited hearing. Accordingly, they are fixed on every Friday. It is further stated that Dy.S.P Vinod Ade and P.H.C. B.No.586 will physically remain present in the Court to assist the Court for locating documentary evidence referred by the learned Spl.PP during his argument through V.C.

3. Say of defence side was called to both these applications. Initially, the learned counsel for accused No.4 requested for time to file say on the application (Exh.3420). Accordingly, in the interest of justice time was granted to him till next date. However, later on he submitted his say on both the applications and gave no objection for submitting argument by the learned Spl.PP through video conferencing subject to local assistance

of any officer of State CID or any other officer to refer the exhibited documents pointed out during argument by the learned Spl.PP. On the same line accused No.1 also gave no objection for both the applications. Accused No.9 through his counsel objected the application (Exh.3420) by stating that no urgency is shown to conduct the matter through video conferencing.

4. Apart from accused No.1, 4 and 9 remaining accused have not file their say to both these applications, though while passing order on their exemption applications, their learned counsels are specifically directed to attend and conduct the matter in absence of the accused. Hence, both these applications are being decided without say of the remaining accused.

5. Perused the record. Undisputedly, in view of the order dated 16.10.2023 passed by the Hon'ble Supreme Court in M.A. No. 1987/2023 IN M.A. No.1935/2022 IN TRANSFER PETITION (CRL.) NOS. 333-348 OF 2021, as this court has been directed to complete hearing on or before 4.11.2023, vide order passed below Exh.1 on today, hearing of this matter is directed to be taken up on day to day basis till further orders. Accordingly, the learned Spl.PP. has started his final argument today and substantially argued the matter. However, according to him, due to his health condition he is not able to travel long distance frequently that too from Nashik to Nagpur as due to recent road accident occurred on 11.10.2023 he has suffered several injuries. Therefore, he is seeking permission to submit his further argument through V.C.. He has also undertaken to attend and proceed with the matter through V.C. and physically as per medical advice. Further, he has also mentioned in the

application itself that on behalf of the prosecution Dy.S.P. Vinod Ade and PH.C. B.No.586 will remain present before the Court to assist the Court for locating the documentary evidence referred by the learned Spl.PP during his argument through V.C.. Needless to say that this assistance will also be available for the defence side, if required. Health difficulty of the learned Spl.PP is not disputed by defence side. In above circumstances, there is no hurdle in granting permission to him to submit his argument through V.C. if he is so advised by the doctors.

6. Another prayer made by the learned Spl.PP is that hearing of this matter be fixed after 1.11.2023 and to that extent order below Exh.1 passed on today be modified or relaxed. As mentioned above, it is informed by the learned Spl.PP that he has to attend hearing of above referred three special sessions trial on every Friday in view of the directions of expedite hearing by the Hon'ble Supreme Court therein. Considering this situation, in the interest of justice at the most hearing of this matter will not be taken up on Friday. However, in the given circumstances, it will not be possible to adjourn this matter and keep directly after 1.11.2023.

7. In the result following order is passed -

ORDER

1. The applications (Exh.3420 and 3421) are partly allowed.
2. The learned Spl.PP is allowed to submit his argument through video conferencing if he is so advised medically and subject to condition that Dy.S.P. Vinod Ade and PH.C. B.No.586 will remain physically present before the Court during that period to extend assistance, if required for

..4.. RCC No. 147/2002
State of Mah. ..Vs.. Sunil Kedar & ors.

locating the documents referred during argument.

3. To avoid inconvenience, it is hereby directed to both sides that except Friday the matter will be taken up every day in the entire second session till further orders.

Nagpur.

Date : 26.10.2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
Nagpur.

..5..

RCC No. 147/2002

State of Mah. ..Vs.. Sunil Kedar & ors.

CERTIFICATE

I affirm that the contents of this P.D.F file of order are same word to word as per original order.

Name of Stenographer : Sau. V. S. Barde(Grade-II)

RCC No. 147/2002

State of Mah..

..Vs..

Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 31.10.2023)

See the order dated 26.10.2023 passed below Exh.1 along with common order passed below the applications (Exh.3420 and 3421).

2. Vide above mentioned orders hearing of this matter has been directed to be kept on every day except Friday in the entire second session till further orders. Accordingly, the matter is being taken up day to day in second session. Learned Spl.PP has completed his oral arguments today through V.C. reserving his right to argue on law points and citations after completion of the arguments of defence side.

3. Trial proceeded against accused Nos.1 to 9 and 11. These accused are represented through several counsels. Looking to the voluminous record of the case and various counsels representing the accused persons, it appears that considerable time will be required to complete the arguments of defence side. In view of all these circumstances along with time limit prescribed by the Hon'ble Supreme Court, henceforth, it is necessary to take up the matter every day in both the sessions. Hence, both sides are directed that from 01.11.2023 this matter will be taken up on every working day in both the sessions till further orders.

4. Both sides to take note of it and follow accordingly.

Nagpur.

Date : 31.10.2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : Sau. V.S. Barde(Grade-II)

RCC No. 147/2002
State of Mah.
..Vs..
Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 04.11.2023 at 12.30 p.m.)

See the order passed below Exh.1 on 31/10/2023.

2] As per directions of the Hon'ble Supreme Court in M.A.No.1987/2023 in M.A.No.1935/2022 in TRANSFER PETITION (CRL) NO.333-348 of 2021, this Court has been directed to conclude the hearing of arguments in this case on or before 04/11/2023. Accordingly, vide orders passed below Exh.1 on 26/10/2023 and 31/10/2023, the matter is being taken up on day-to-day basis. Both sides are also given liberty to submit written notes of arguments, if any.

3] Learned Spl.PP. has completed his oral argument reserving right to argue on law points and citations after completion of the arguments of defence side.

4] Learned counsel for accused No.1 has partially submitted his oral argument. His application (Exh.3444) seeking adjournment of the matter for further argument has been rejected. He is not present for further oral argument. In such circumstances, further oral argument of learned counsel for accused No.1 stands closed.

5] Learned counsels for accused No.7 and 11 have completed their oral arguments. In view of the time limit given by the Hon'ble Supreme Court, learned counsels for remaining accused are directed to complete their oral arguments on today itself. Subsequent to this, learned Spl.PP. is also directed to complete his submission, if any, on law points and citations on today itself.

.. 2 ..

6] All concerned to take note of this order and follow scrupulously.

Nagpur.
Date : 04/11/2023

Sd/-
(J. V. Pekhale-Purkar)
2nd Addl. Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I)

RCC No. 147/2002
State of Mah.
..Vs..
Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 04/11/2023 at 05.40 p.m.)

See the order passed below Exh.1 on 31/10/2023 and today
i.e. on 04/11/2023 at 12.30 p.m.

2] In view of above orders and directions of the Hon'ble
Supreme Court in M.A.No.1987/2023 in M.A.No.1935/2022 in
TRANSFER PETITION (CRL) NO.333-348 of 2021, as today is the last date
for completing the hearing of final arguments of both sides, all the parties
and their learned counsels including Spl.PP are hereby informed that this
Court and staff members will continue sitting beyond office hours so as to
facilitate the parties concerned to complete their final arguments.

3] All concerned to take note of this order and follow
scrupulously.

Nagpur.
Date : 04/11/2023

Sd/-
(J. V. Pekhale-Purkar)
2nd Addl. Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

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word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I)

RCC No. 147/2002
State of Mah.
..Vs..
Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 04/11/2023 at 09.45 p.m.)

See the order passed below Exh.1 on 31/10/2023 and today i.e. on 04/11/2023 at 12.30 p.m. and at 05.40 p.m.

2] In view of above orders and directions of the Hon'ble Supreme Court in M.A.No.1987/2023 in M.A.No.1935/2022 in TRANSFER PETITION (CRL) NO.333-348 of 2021, as today is the last date for completing the hearing of final arguments of both sides, all the parties and their learned counsels including Spl.PP were hereby already informed that this Court and staff members will continue sitting beyond office hours so as to facilitate the parties concerned to complete their final arguments.

3] Accordingly, after closing further arguments of accused No.1 on today vide order passed at 12.30 p.m. below Exh.1, learned counsels for accused No.2, 4, 5, 6 and 11 have completed their oral arguments. Learned counsel for accused No.7 has already completed his oral argument on 03/11/2023. Learned Spl.PP has also completed his oral reply arguments on today. In spite of giving opportunities, none argued the matter on behalf of accused No.8 and 9 till closure of today's working at 9.45 p.m. Rather no one is present on their behalf. Hence, oral arguments on behalf of accused No. 8 and 9 is treated as closed. It is hereby made clear that written notes of arguments, if any, already filed on record by the accused persons previously will also be considered.

4] In the interest of justice, all the concerned parties are hereby informed that they can submit brief written notes of arguments, if any, if they want without fail on 06/11/2023.

5] Oral arguments of all the parties are hereby closed.

Nagpur.

Date : 04/11/2023

Sd/-

(J. V. Pekhale-Purkar)

2nd Addl. Chief Judicial Magistrate

(Spl. Court for S.138 N.I. Act),

Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I)

RCC No. 147/2002
State of Mah.
..Vs..
Sunil Kedar & ors.

ORDER PASSED BELOW APPLICATION (EXH.3436)
(Passed on 08/11/2023)

This is an application filed on behalf of accused No.1 under Section 216 of the Code of Criminal Procedure (hereinafter referred to as “the CrPC” in short).

2] The application reads as under -

As per case of the prosecution, accused No.1 along with accused No.2 and 11 while acting as Chairman, General Manager and Chief Accountant respectively of the Nagpur District Central Cooperative Bank (hereinafter referred to as “the NDCCB” in short) have committed irregularities by investing in government securities through private brokers namely Home Trade Limited, Century Dealers, Giltage Management, Indramani Merchants and Syndicate Management Services who in turn have misappropriated the funds of the NDCCB. It is also the case of the prosecution that these accused have acted contrary to the guidelines issued by the Reserve Bank of India. It is further contended that instead the alleged acts and omissions on the part of this accused is governed by the provisions of Section 70 read with Section 146(c) punishable under Section 147(c) of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as “the MCS Act” in short) which is a complete Code in itself. According to accused No.1, MCS Act is a subsequent and special enactment and therefore, it has overriding effect over the general enactment i.e. the Indian Penal Code (hereinafter referred to as “the IPC Act” in short). The MCS Act being a special enactment having provisions of Section 146(c) read with Section 147(c) to cover the acts and omissions on the part of accused No.1, provisions contained in Section 406, 409, 468

and 471 of the IPC have no application in the case at hand. Accordingly, charges framed vide Exh.1096 is erroneous and without jurisdiction. Hence, it is prayed to alter, modify and vary the charge framed against accused No.1 under Sections 406, 409, 468 and 471 of the IPC by declaring the same as erroneous and without jurisdiction and instead frame charge under Section 70 read with Section 146(c) punishable under Section 147(c) of the MCS Act.

3] Learned Spl.PP resisted the application vide reply (Exh.3457). It is stated that this matter has been made time-bound as per directions of the Honourable Supreme Court in M.A.No.1987 of 2023 in M.A.No.1935 of 2023 in TRANSFER PETITION (CRL) NOS. 333-348 of 2021 (Ketan Kantilal Seth Vs State of Gujrat). However, accused No.1 is trying to prolong the matter by moving false and frivolous application. It is further stated that charge is correctly framed vide Exh.1096 on 14/11/2019. Since then, no objections were raised by accused No.1. Charge was framed after hearing the accused at length. With these submissions, learned Spl.PP prayed for rejection of the application.

4] Heard learned counsel for accused No.1 and learned Spl.PP through video conferencing. Learned counsel for accused No.1 has also already submitted his arguments at length on the points raised in the present application while submitting final arguments of the matter. He has relied upon following citations in support of his arguments -

- i) **Sharat Babu Digumarti Vs Government (NCT of Delhi), (2017) 2 Supreme Court Cases 18;**
- ii) **Gagan Harsh Sharma and Another Vs State of Maharashtra Through Sr. Police Inspector and Another, 2018 SCC OnLine Bom 17705;**
- iii) **Shadab Abdul Shaikh Vs Gagan Harsh Sharma & Ors, Petition(s) for Special Leave to Appeal (Cri.) No(s). 10264-10265/2018; and**
- iv) **Ajay Murlidhar Batheja Vs State of Maharashtra and Another, Criminal**

Application No. 1217 of 2018, decided on 26/10/2018.

5] Perused the record and proceeding. Crime No.97/2002 dt. 25/04/2002 and 101/2002 dt. 29/04/2002 came to be registered in Ganeshpeth police station, Nagpur. The investigating officer filed chargesheet against total 11 accused persons alleging commission of offence punishable under Sections 406, 409, 468 and 471 read with Sections 120(B), 34 of the IPC.

6] My learned predecessor gave an opportunity of hearing to the prosecution and defence side on the point of framing of charge. Having heard both sides at length, he passed an order below Exh.1 on 14/11/2019 and decided all the objections raised on behalf of accused persons on the point of framing of charges along with prayer to discharge the accused. In para No.8 of this order, he has held that there is sufficient ground to frame the charge against all the accused persons for the offence punishable under Section 120(B) and Sections 406, 409, 468 and 471 read with Section 120(B) in alternative read with Section 34 of the IPC. Accordingly, he framed charges against the accused vide Exh.1096 for commission of above mentioned offences.

7] The trial proceeded further. Evidence of the prosecution witnesses and that of defence witnesses came to be recorded. Statements of the accused under Section 313 of the CrPC also came to be recorded. Final arguments were also completed before my learned predecessor. The matter was fixed for judgment. However, later on, as per order of the Honourable Supreme Court it came to be transferred to the Honourable Principal Judge, City Civil Court, Mumbai and again re-transferred to this Court as per order of the Honourable Supreme Court in M.A.No.1935 of 2023 in TRANSFER PETITION (CRL) NOS. 333-348 of 2021 (Ketan Kantilal Seth Vs State of Gujrat) passed on 04/08/2023. Thereafter, the

matter was again fixed for the final arguments. At that time, during final arguments of accused No.1, present application came to be filed. The points so raised in the present application are not seen to have been raised at any point of time during entire trial. They were also not raised when opportunity of being heard was given by my learned predecessor on the point of framing charge. Not only this, order passed by my learned predecessor on 14/11/2019 below Exh.1 was never challenged by accused No.1 or any other accused persons. It means that order is still intact.

8] Coming to the contentions of accused No.1 in the application under consideration, it is mainly contended that acts and omissions attributed to the present accused are squarely covered by the provisions of Section 146(c) read with Section 147(c) of the MCS Act. As the MCS Act is a special enactment and a complete Code in itself, that too enacted after the general enactment i.e. the IPC, provisions of Section 406, 409, 468 and 471 of the IPC are not applicable with respect to present accused. Therefore, learned defence counsel prayed for declaring charges already framed vide Exh.1096 to be erroneous and without jurisdiction and by modifying, altering and varying the same to frame charge against the accused only under Section 70 read with Section 146(c) punishable under Section 147(c) of the MCS Act.

9] Learned counsel for accused No.1 completely based his arguments on the citations mentioned above in para No.4. With support of these citations, he vehemently contended that a ratio therein is squarely applicable to the case at hand. Herein the MCS Act being special enactment and later in time than the general enactment of the IPC, would prevail and acts and omissions attributed to the present accused being completely covered by Section 146(c) read with Section 147(c) of the MCS Act, charges framed vide Exh.1096 being completely erroneous and without jurisdiction are liable to be varied and instead charge under

Section 70 read with Section 146(c) punishable under Section 147(c) of the MCS Act needs to be framed.

10] Undisputedly, the MCS Act is a special enactment of 1960 enacted for the orderly development of the cooperative movement in the State of Maharashtra. The general enactment i.e. the IPC is of 1860. It is also settled law that provisions of special enactment later in point of time prevail over the provisions of general enactment provided there is a specific provision or non-obstante clause or provision in the special enactment as to overriding effect. In absence of any such provision giving overriding effect expressly or impliedly to the provisions of special enactment, merely it being later enactment, will not prevail over the provisions of the general enactment. Moreover, all the alleged acts or omissions attributed to the accused should be covered by the special enactment.

11] In the cases of **Sharad Digumarti, Gagan Sharma and Ajay Batheja (all cited supra)**, overriding effect of the Information Technology Act, 2000 qua the IPC and applicability of the provision of the IPC were at issue before the Honourable Supreme Court and Honourable Bombay High Court. It is held therein that there is a specific provision under Section 81 of the Information Technology Act, 2000 giving overriding effect to the provisions of this Act over any other law for the time being in force which also includes the IPC. It is further observed that all the acts and omissions alleged to have been committed by the accused therein are completely covered by the provisions of the Information Technology Act, 2000. Therefore, it is held that offences of similar nature prescribed under the IPC do not apply and prosecution under those sections is not maintainable and the accused can be prosecuted only for the offences covered under the Information Technology Act, 2000.

12] There is no observation or finding of the Honourable Supreme Court and Honourable Bombay High Court in above mentioned cases that provisions of Special Act would prevail over the provisions of general enactment i.e. the IPC even in absence of provision as to overriding effect or non-obstante clause in the special enactment. In this regard, it is also observed by the Honourable Supreme Court that if the legislative intendment is discernible that a later enactment shall prevail, the same is to be interpreted in accordance with the same intention. Once the special provisions having the overriding effect to cover a criminal act and the offender, he gets out of the net of the IPC.

13] Coming to the case at hand, at the outset, there is no provision or non-obstante clause in the MCS Act giving overriding effect to it over the provisions of any other law or the IPC. Moreover, upon consideration of the chargesheet and documents filed along with it, it is clear that the alleged acts and omissions attributed to the present accused and all other accused form part of ingredients of Section 120(B) and Section 406, 409, 468 and 471 read with Section 120(B) in alternative read with Section 34 of the IPC.

14] Moreover, Section 146(c) read with Section 147(c) or any other provision of the MCS Act do not cover all the alleged acts and omissions on the part of the present accused along with all other accused. They are covered by Section 120(B) and Sections 406, 409, 468 and 471 of the IPC. There is no provision in the MCS Act to exclude and go away the acts and omissions of the accused persons which are not covered under the MCS Act, more particularly when those are covered by the provisions of IPC. This view is also supported by the observations and ratio laid down by the Honourable Supreme Court in the case of **Rama Rao Vs. Narayan, (1969) 1 SCC 167.**

15] Even otherwise, as already stated, order passed by my learned predecessor below Exh.1 on 14/11/2019 about framing of charge is not assailed by any of the accused persons before the Honourable Superior Court and hence, is intact. Therefore, contention of learned counsel for accused No.1 about charges framed by my learned predecessor vide Exh.1096 being erroneous and without jurisdiction and only the provisions of Section 70 read with Section 146(c) read with Section 147(c) of the MCS Act being applicable, is absolutely not tenable.

16] In the circumstances mentioned in above paragraphs, with due respect to the Honourable Supreme Court and Honourable Bombay High Court, citations in the cases of **Sharad Digumarti, Gagan Sharma and Ajay Batheja (supra)** are not applicable to the present case. No case is made out to alter, modify or vary the charges framed vide Exh.1096 and instead framing of charge under Section 70 read with Section 146(c) read with Section 147(c) of the MCS Act.

17] In view of above discussion, application (Exh.3436) is liable to be rejected. In the result, following order is passed -

ORDER

The application (Exh.3436) stands rejected.

Nagpur.
Date : 08/11/2023

Sd/-
(J. V. Pekhale-Purkar)
2nd Addl. Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I)

RCC No. 147/2002
State of Mah.
..Vs..
Sunil Kedar & ors.

COMMON ORDER PASSED BELOW APPLICATIONS
(EXH.3445, 3451 TO 3453, 3467 & 3473)
(Passed on 09/11/2023)

All these are the applications filed on behalf of accused No.1, 2, 4 to 7 and 9 seeking exemption from their personal appearance till pronouncement of judgment or further orders.

2] Learned Spl.PP. replied the applications vide reply Exh.3459, 3468 to 3470, 3475 and 3476.

3] Perused the record and proceeding. Accused No.2, 4 to 7 and 9 have moved these applications seeking exemption from their personal appearance till pronouncement of judgment or further orders whereas accused No.1 is seeking exemption from personal appearance till 10/11/2023. All these accused have stated various reasons including medical grounds to move these applications and also undertaken that they will remain present before the Court as and when directed. Their counsels are ready to conduct/ attend the matter in their absence.

4] Final arguments of both sides are completed. Now the matter is pending for awaiting notices and hearing below the application filed on behalf of accused No.1 under Section 319 of the Code of Criminal Procedure. Personal presence of the accused persons is not necessary at this stage provided their counsels attend and conduct the matter in their absence without fail. Learned Spl.PP. has also not raised any objection. In such circumstances, the applications can be allowed subject to certain conditions.

5] In the result following order is passed -

ORDER

1] Personal appearance of accused No.1, 2, 4 to 7 and 9 is hereby exempted till further orders subject to following conditions -

- i) Learned counsel of above mentioned accused persons shall attend and conduct the matter on every date without fail.
- ii) The accused shall attend the proceeding as and when directed by this Court without any excuse.
- iii) Absence of the accused shall not be the ground for adjournment of the proceeding.

2] Applications (Exh.3445, 3451 to 3453, 3467 & 3473) are disposed of accordingly.

Nagpur.
Date : 09/11/2023

Sd/-
(J. V. Pekhale-Purkar)
2nd Addl. Chief Judicial Magistrate
(Spl. Court for S.138 N.I. Act),
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I)

RCC No.147/2002
State of Mah.
... Vs ...
Sunil Kedar & Ors.

ORDER BELOW APPLICATION (Exh.3446) IN R.C.C. No.147/2002

This is an application under Section 319 of the Code of Criminal Procedure (hereinafter referred to as the “Cr.PC.” in short) for arraigning Hiren Ammen (P.W.10), Ketan Maskariya (P.W.38) and Jaykumar Mehta (P.W.42) in the present case to answer the charge and face the trial.

2. The application reads as under :

Accused No.1 along with other accused persons is charged for commission of offences punishable under Sections 406, 409, 468, 471 read with Section 120-B in the alternative Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as the “I.P.C.” in brief). It is stated that from the evidence of prosecution and particularly of witness No.10, 38 and 42 and documentary evidence placed on record by the prosecution, it appears that these 3 witnesses are involved in the commission of alleged offences. Their testimonies demonstrate their role in the commission of present offence. This piece of evidence if remains unchallenged could possibly lead to their conviction. Hence, relying upon the law laid down by the Hon’ble Supreme Court in the case of **Hardeep Singh Vs. State of Punjab, 2014 Cri.L.J. 1118**, accused No.1 prayed for arraigning them in the present case and trying them in accordance with law.

3. Learned Spl.P.P. resisted the application vide reply (Exh.3458). It is stated that this matter is time bound as per orders of the Hon'ble Supreme Court and is directed to be decided on or before 30.11.2023. However, only to delay the matter this application came to be filed. Besides this, rest of the contents of reply (Exh.3458) appears to be in respect of contentions of accused No.1 made for alteration of charges vide application (Exh.3436) which has already been decided vide order dated 08.11.2023. The learned Spl.P.P. chose to keep silence about contentions of accused No.1 in the present application.

4. Heard learned Counsel for accused No.1 and learned Spl.P.P. for the prosecution. Learned Counsel for accused No.1 reiterated the contents of the application. He stated that from the testimonies of prosecution witness No.10, 38 and 42 along with their statements recorded as per Section 161 of the Cr.P.C., their role in the commission of present offences can be carved out. This evidence if remained unchallenged could lead to their conviction. Learned Counsel for accused No.1 also put forth legal position with respect to Section 319 of the Cr.P.C. in the light of law laid down by the Hon'ble Supreme Court in the case of Hardeep Singh (Cited Supra).

5. On the other hand, learned Spl.P.P. though kept silence in the reply (Exh.3458) regarding contentions of accused No.1 with respect to Section 319 of the Cr.P.C., vehemently contended during argument that present application is filed by accused No.1 only to pressurize the prosecution witnesses and prolong the matter. No incriminating evidence has come on record against above mentioned

witnesses. This application is filed on assumption and presumption basis only. Accused No.1 has not even cross-examined these three witnesses. When the trial is at the fag end and only judgment is remained to be delivered, present application has been filed only to protract the trial. With these submissions, learned Spl.PP. prayed for rejection of the application.

6. Constitution Bench of the Hon'ble Supreme Court in the case of Hardeep Singh (Cited above) has dealt with various facets and scope of Section 319 of the Cr.P.C. and set out the norms to be considered and followed while considering the application under Section 319 of the Cr.P.C. The Hon'ble Supreme Court has answered five very important questions including the stage at which power under Section 319 can be exercised, meaning and scope of the term "evidence" used in Section 319(1), nature of satisfaction required to invoke the powers under this provision and to which persons power under this Section extends.

7. In the light of settled legal position in the above cited authoritative pronouncement application under consideration will have to be seen. In the case at hand as contended in the application and stated during arguments, accused No.1 has relied mainly upon testimony of prosecution witness No.10, 38 and 42, documents referred in their evidence and their statements recorded as per Section 161 of the Cr.P.C. to demonstrate their complicity in the commission of alleged offences.

8. At the outset, in view of law laid down by the Hon'ble Supreme Court in the above cited case, statement under Section 161 of the Cr.P.C. being recorded during investigation cannot be considered as evidence as contemplated in Section 319 of Cr.P.C. As per law laid down by the Hon'ble Supreme Court to invoke the power under Section 319 of Cr.P.C evidence recorded by the Court during trial is to be mainly considered and any material received by the Court during any of the inquiries conducted under Section 200, 201, 202 and 398 of Cr.P.C. can be utilized only for corroboration and to support the evidence recorded by the Court during trial.

9. In the case at hand admittedly there is no such inquiry under any of the above referred provisions. Therefore, it will have to be seen as to whether any material has come on record through the evidence recorded by the Court during trial to show involvement of prosecution witness No.10, 38 and 42 in the commission of offence which if remains un-rebutted could lead to their conviction. As stated hereinbefore, accused No.1 has mainly pointed out the testimonies of prosecution witness No.10, 38 and 42 to show their involvement in the commission of alleged offences.

10. As per testimony of prosecution witness No.10, he was one of the directors of Syndicate Management Services Pvt. Ltd. during 1999 to 2003. He has deposed about transactions dated 07.01.2002 and 25.01.2002. He has deposed that these transactions were done as per say of Home Trade Ltd. director whereof was Sanjay Agrawal i.e. accused No.3. Further, this witness has identified signature of accused No.7 on the confirmation letter (Exh.1159)

which was allegedly issued by accused No.7. Further, he has deposed about receipt of fax (Exh.1348) sent by the Nagpur District Central Co-Op. Bank to Syndicate Management Services Pvt. Ltd. He has also deposed about the instructions and assurances given by Home Trade Ltd. for transfer of money and providing securities and later non compliance thereof by Home Trade Ltd..

11. Accused No.1 has not cross-examined prosecution witness No.10 with respect to his contentions about role of this witness in the commission of alleged offences. Moreover, looking to the nature of his testimony, it appears that no sufficient material is available against this witness regarding his complicity in the commission of alleged offences. The confirmation letter (Exh.1159) is also alleged to have been issued by accused No.7 under his signature. I do not find any material through this evidence regarding complicity of this witness which if remain un-rebutted could warrant his conviction. Apart from this, no other evidence is pointed out by accused No.1 to show his involvement in the commission of alleged offences.

12. As regards prosecution witness No.38 and 42 also accused No.1 has mainly relied upon their own testimonies to show their involvement in the commission of alleged offences. Perusal of testimonies of both these witnesses shows that both of them are the employees of Lloyds Brokerage Limited, renamed as Uro Asian Securities Ltd. and subsequently renamed as Home Trade Ltd. They have deposed about the procedure of making contract notes in Home Trade Ltd. and its associated companies. They have deposed about the role and involvement of accused No.3, 4, 8, 9 and 10.

Testimonies of these witnesses along with documents referred therein do not show their complicity in the commission of alleged offences. Nature of this evidence is not such that on being subjected to trial if it remained unrebutted it could result in conviction of these witnesses. In respect of these two witnesses also apart from their own testimonies and documents referred therein no other evidence is pointed out by accused No.1 to show their involvement in the commission of alleged offences. Moreover these witnesses were also not cross examined by accused No.1.

13. As such testimonies of above mentioned witnesses and documents referred therein do not show their involvement in the commission of alleged offences. Other evidence on record also prima facie do not show involvement of these witnesses in the commission of alleged offences. Norms set by the Hon'ble Supreme Court for invoking powers under Section 319 of the Cr.P.C. are not met in the case at hand. Moreover, Hon'ble Supreme Court in the case of **R. Dineshkumar@Deena Vs. State Rep. By Inspector of Police & Ors in reportable Judgment dated 16.03.2015 delivered in Criminal Appeal No.454 of 2015 (Arising out of SLP (Criminal) No.9928 of 2014)** has held that “.... The Proviso to Section 132 of the Evidence Act is a facet of the rule against the same statutory immunity against self incrimination which deserves the most liberal construction. Therefore, no prosecution can be launched against the maker of a statement falling within the sweep of Section 132 of the Evidence Act only on the basis of the “answer” given by a person while deposing as a “Witness” before a Court”.

14. As such, no case is made out to invoke jurisdiction under Section 319 of the Cr.P.C. in respect of above mentioned witnesses. Present application being devoid of merits is liable to be rejected. In the result I pass the following order-

O R D E R

The application (Exh.3446) stands rejected.

Nagpur.

Date : 20.11.2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
Nagpur.

RCC No. 147/2002

State of Mah..

..Vs..

Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 21.11.2023)

Perused the record and proceedings. Final arguments of both sides are completed on 04.11.2023. Meanwhile accused No.1 had filed applications (Exh.3436 and 3446) respectively under Sections 216 and 319 of the Code of Criminal Procedure. After hearing both sides application (Exh.3436) came to be decided on 08.11.2023 whereas application (Exh.3446) came to be decided on 20.11.2023. No other application is pending. Therefore, now the matter will have to be kept for Judgment.

2. In view of common order dated 09.11.2023 passed below the applications (Exh.3445, 3451 to 3453, 3467 and 3473) and order dated 20.11.2023 passed below the application (Exh.3478), exemption from personal appearance has been granted to accused Nos.1, 2, 4 to 7, 9 and 11 till further orders. As now the matter will be posted for Judgment on the next date personal appearance of all the accused persons is necessary before the Court.

3. In the result following order is passed -

ORDER

1. Matter be posted for Judgment on 28.11.2023.
2. All the accused persons (excluding absconding accused) are directed to remain present before the Court on the next date without fail.

Nagpur.

Date : 21.11.2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : Mrs.B. P. Chinchalkar (Grade-II).

RCC No. 147/2002
State of Mah..
..Vs..
Sunil Kedar & ors.

ORDER PASSED BELOW EXH.1.
(Passed on 26/12/2023)

Perused the record. As per order dated 14/11/2019 passed below Exh.1 by the predecessor of this Court, trial of remaining accused except accused No.3 was proceeded further. Accordingly, vide judgment and order dated 22/12/2023, case is disposed of with respect to accused No.1, 2, 4 to 9 and 11.

2] Now, in view of directions of the Honourable Bombay High Court in CRIMINAL APPLICATION NO. 628 OF 2014 WITH INTERIM APPLICATION NO.63 OF 2020 IN CRI. APPLICATION NO.628/2014 vide order dated 9th July 2021, trial with respect to accused No.3 namely Sanjay Hariram Agrawal will have to proceed further on day to day basis. Before that, it is necessary to secure presence of accused No.3.

3] In the result, following order is passed-

ORDER

[1] Issue summons to accused No.3 and notice to his surety in order to secure presence of accused No.3. Both returnable on 02/01/2024.

[2] State C.I.D., Nagpur shall make every endeavour to secure presence of accused No.3 without fail and report the compliance.

Nagpur.
Date : 26/12/2023

(J. V. Pekhale-Purkar)
2nd Addl Chief Judicial Magistrate
Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : G.A. Joshi (Grade-I).