

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**902 CRIMINAL APPEAL NO.393 OF 2020
WITH APPLN/263/2021 IN APPLN/877/2020 WITH
APPLN/1205/2020 IN APEAL/393/2020 WITH
ALS/2/2021 WITH APEAL/3/2021 WITH
APEAL/262/2020 WITH APPLN/262/2021 IN
APPLN/1205/2020 WITH APPLN/877/2020 IN
APEAL/262/2020**

**SYED SHAHABODDIN ALIAS SHAHAB S/O SYED RASHED
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Appellant : Mr. R.S. Deshmukh Sr. counsel
i/b Adv. Mr. D. R. Deshmukh
APP for Respondents: Mr. S.D. Ghayal
Advocate for applicant in Cr. Appeal No.262/2020 in Cr. Application
NO.877/2020: Mr. A.S. More
Advocate for applicant in Cr. Application No.262/21 & 263/21:
Ms. Varsha S. Ghanekar

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CORAM: RAVINDRA V. GHUGE & B. U. DEBADWAR, JJ

Date: 30.1.2021

PER COURT :-

1 We are in receipt of a communication from the learned Trial Court in Sessions Case No.243/2018, requesting for the return of the original Record & Proceedings, since the Trial Court desires to proceed with the trial, as against the absconding accused. The Trial Court is situated at Aurangabad.

2 The learned Senior Advocate and the learned Prosecutor submit that certified photostat copies taken from the original Record and Proceedings can be called-for from the Trial Court, for the purposes of considering the pending Applications filed by the convicted accused, seeking suspension of substantive sentence and for enlargement on bail.

3 We are of the view that the ends of justice would be met by returning the original Record & Proceedings, so as to avoid stalling of the progress before the Trial Court, as against the absconding accused. Certified photostat copies of the original Record and Proceeding would assist us for considering these Applications as well as the Application filed by the State, seeking leave to Appeal against the acquittal of some of the accused and for seeking enhancement in sentence of some convicted accused.

4 Issue notice to the respondents on the Application for Leave to Appeal filed by the State, bearing No.2/2021 and in Criminal Appeal No.3/2021. The respondents are at liberty to enter their replies, if so desired.

5 The original Record & Proceedings in Sessions Case No.243/2018 be returned to the learned Additional Sessions Judge, Court of Sessions, Aurangabad through a special

messenger from this Court. The Trial Court is requested to prepare certified copies of the Record and Proceeding and transmit the same to this Court, as expeditiously as possible and preferably on or before 31.3.2021.

6 List these Applications along with the Application of the State, for hearing, on 7.4.2021.

7 In so far as Criminal Application Nos.262/21 and 263/21 are concerned, we have heard the learned counsel for the parties. There is no objection for permitting these Applicants to assist the prosecution. These two Applications, are, therefore, allowed.

(B. U. DEBADWAR, J)

(RAVINDRA V. GHUGE, J)