



Petitioner
Applicant

Respondent
Applicant

Mr.A.S.
Petitioner
Mr.P.S.

CORAM : V.M. KANADE, J.

DATED : AUGUST 14, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner and the learned APP for the State.

2. Rule. Respondent waives service. Rule is made returnable forthwith by consent of the parties.

3. The petitioner was attached to a Primary Health Centre, Lonand, District Satara. He was examined as a prosecution witness in Sessions Case No.43/2003. The Additional Sessions Judge, Baramati, District Pune, by his judgment in the said Sessions case came to the conclusion that the petitioner has given false evidence and therefore, issued Show Cause Notice against him

the head of the accused stated
that the injury was caused by a blunt object which
was shown to the accused and stated
that the injury was caused by a blunt
object. The petitioner as a hostile witness since he had supported the
prosecution case. The prosecution had also examined one
other Medical Practitioner, Dr. Sanjay Sadashiv Shivade.
This doctor performed the operation on the deceased who
also gave his opinion that the injury could be caused by
sickle. The said Dr. Shivade, however, stated in his
evidence that the injuries were incised wounds. The
trial Court convicted the accused by its order dated
13th December, 2005. However, in para 7 and 17 of the
said judgment, the learned Judge came to a conclusion
that the petitioner had fabricated and had given false
evidence with ulterior motive of helping the accused and
therefore, issued a Show Cause Notice to the petitioner.

5. The learned Counsel for the petitioner submitted
that the petitioner being a doctor has given his expert
opinion after having performed the post mortem. He

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6. The submission made by the learned Counsel for the petitioner will have to be accepted. I have perused the judgment and order passed by the trial Court. In the present case, two experts have given their opinion in respect of the injuries which were caused on the person of the deceased. Both the Doctors have stated that the injuries could have been caused by a sickle. While performing the port mortem, the petitioner has opined that these injuries are in the nature of CLW whereas the Doctor who performed the operation on the deceased while he was still alive has given an opinion that there were incised wounds. It is an admitted position that other injuries were caused on the skull. It is possible that the injuries may appear to be CLW and on closure inspection while performing an operation considering the depth of the wound, it might appear to

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as a hostile witness. He was not even cross-examined by
the prosecution. In my view, the Show Cause Notice
which is issued by the Sessions Judge, was to say the
least, unwarranted and uncalled for.

7. The Show Cause Notice, therefore, is set aside.
The petition is made absolute in terms of prayer clause
(a).

(V.M. KANADE, J.)