

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.126 OF 2015

Gurunath s/o Satlingappa Chingunde,
Age : 65 years, Occu. Retired & Agril.,
R/o Jevani, Tq. Lohara,
Dist. Osmanabad

..PETITIONER
(Orig. Complainant)

VERSUS

1. The State of Maharashtra,
2. Sharnappa s/o Limbu Panchbhai,
Age : 50 years, Occu. Agril.,
3. Gurusidhappa s/o Satappa Karbhari,
(Since deceased)
4. Dattu s/o Sambhaji Hawale,
Age : 65 years, Occu.Agril.,
5. Fulchand Gurusidhappa Karbhari,
Age : 40 years, Occu.Agril.,
6. Irappa Limbanapa Panchbhai,
Age : 38 years, Occu.Agril.,
7. Sangappa Limbanappa Panchbhai,
Age : 42 years, Occu.Agril.,
8. Mahananda w/o Mahadeo Chiwadshetty,
Age : 55 years, Occu.Agril.,

All R/o Jewani, Tq. Lohara,
Dist. Osmanabad

..RESPONDENTS
(Orig. Accused)

Mr S.N. Patne, Advocate for petitioner;
Mr S.R. Palnitkar, A.P.P. for respondent no.1;
Mr V.M. Vibhute, Advocate for respondents no.4 to 8

CORAM : N.W. SAMBRE, J.

DATE : 3rd September, 2015

ORAL ORDER :

By the instant writ petition, the petitioner – original complainant challenges the order dated 31st December, 2014, passed by Judicial Magistrate First Class, Lohara, below Exh.86, in Regular Criminal Case No.412 of 2008, whereby the application preferred by him under section 311 of the Code of Criminal Procedure, for summoning witnesses came to be rejected, as the petitioner had not given any reason for summoning those witnesses during the course of recording of evidence.

2. It is the case of the present petitioner that after purchasing the property, he has borrowed loan from Co-operative Bank and has developed a well. With a view to prove the said fact, the petitioner intends to examine said witnesses which issue according to him, is in tune with the case sought to be put forth in criminal trial.

3. The submissions made by the petitioner are supported by documents, to which the attention of this Court was invited.

4. Even though there are no reasons mentioned in the application Exh. 86, yet in my opinion, it will be appropriate to set aside the order

impugned herein, with liberty to the petitioner to file fresh application with complete details, which are canvassed before this Court, in relation to the development of well and other related issues to the main case.

5. In the light of above, I pass the following order :-

The order dated 31st December, 2014, passed by Judicial Magistrate First Class, Lohara, below Exh.86, in Regular Criminal Case No.412 of 2008, is quashed and set aside.

The petitioner is granted liberty to take out fresh application under section 311 of the Code of Criminal Procedure or to file an additional affidavit to substantiate his prayers for summoning the witness which the learned Court below shall deal with on its own merit.

Criminal Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

amj