

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

CRIMINAL REVISION APPLICATION NO. 211 Of 2014.

THE STATE Of MAHARASHTRA.
VERSUS
ANANT NANASAHEB GUTTE AND OTHERS.

Appearance =>

Mr. V.P. Kadam, Additional Public Prosecutor for the State of Maharashtra.

Mr. A.T. Jadhavar, Advocate for Respondent Nos. 1 to 7.

CORAM : V.M. DESHPANDE, J.

DATE : 23rd FEBRUARY, 2015.

Per Court :-

Rule. Rule is made returnable forthwith. Heard finally, with consent of both the parties.

[2] Mr.V.P. Kadam, learned Additional Public Prosecutor submitted that, application Exh.No. 112 filed on behalf of the prosecution in Sessions Case No.15 Of 2009 for procuring the presence of the Investigating Officer – Mr. R.B. Mundhe and one Sarjerao Topaji Herne were rejected by the court below by refusing to accept the prayer made on behalf of the prosecution for issuance of Non Bailable Warrant to procure their presence, since inspite of the fact that they were served with summons, they failed to remain present before the court.

[3] I have perused the order impugned. It clearly shows that, inspite of issuance of summons on nine occasions, the Investigating Officer chose not

to remain present before the court in Sessions Case No.15 Of 2009 for the offences punishable under Section.s. 306 and 506 of the Indian Penal Code. Therefore, in order to procure his presence and presence of other witness, application for issuance of Non Bailable Warrant was filed.

[4] The trial court in my opinion, has committed mistake in not accepting the prayer made by the prosecution. Since inspite of all previous attempts and inspite of service of summons, Investigating Officer was not ready to remain present before the court. In that view of the matter, order passed by the learned Additional Sessions Judge, Gangakhed dated 1st September, 2014 is hereby quashed and set aside.

[5] The trial court is directed to take necessary steps including coercive steps to procure the presence of the witnesses, as prayed by the prosecution for completion of trial. With this, Criminal Revision Application is allowed. Rule made absolute.

(V.M. DESHPANDE, J.)