

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application No. 669 of 2014
[Gajanan son of Onkar DHEME Vs. State of Mah.]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. S.V. Sirpurkar, Adv., for the Applicant.
Mr. S.B. Ahirkar, APP for respondent.

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CORAM : A.B. CHAUDHARI, J.

DATE : 12th June, 2015.

Heard.

What is impugned in the present application is an order dated 17th September, 2014 passed by learned Special Judge, Akola, rejecting application [Exh.70] in Special (ACB) Case No. 9 of 2002, filed by the applicant for recalling one witness [PW 1] in a trial under the provisions of Prevention of Corruption Act.

I do not find anything wrong with the reasons given by the Trial Judge for rejecting the application, because the trial is going on since 2002 and the applicant had opportunity, as observed.

However, I find that the counsel for the applicant

had declined to cross-examine the witness for which the applicant should not suffer. It is a trite law that the applicant-accused must get a fair opportunity, as the delay has occurred. But then the State would be compensated by an order of costs instead of depriving the counsel for the applicant or the applicant of cross-examining the witness. There may be mistake on the part of earlier counsel in declining to cross-examine the witness. Allowing cross-examination at the behest of the accused is an important stage for holding a fair trial. That being so, I make the following order:-

ORDER

- [a]** Criminal Application No. 669 of 2014 is allowed.
- [b]** The impugned order dated 17th September, 2014 passed by Special Judge, Akola, below Exh.70 in Special [ACB] Case No. 9 of 2002 is quashed and set aside.
- [c]** Application [Exh.70] is allowed.
- [d]** Applicant shall deposit an amount of Rs. 10,000-00 [rupees ten thousand only] in the Trial Court payable to the Collector as a pre-condition.
- [e]** Trial Judge shall allow the counsel for the

applicant to cross-examine the witness after recalling the witness and shall complete the evidence in one date and thereafter shall make an endeavour to finish trial as expeditiously as possible.

Judge

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