

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.20 OF 2016

Nanasaheb s/o. Ramrao Gaikwad,
Age 48 years, Occ. Service,
r/o. Plot No.14, Vidya Vihar
Society, New Pahadsingpura,
Aurangabad ..Petitioner

Versus

The State of Maharashtra ..Respondent

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Mr.S.G.Ladda, advocate for petitioner

Mr.A.R.Kale, APP for respondent - State

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 22, 2016

ORAL ORDER :

Heard both sides.

2] Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

3] Present petitioner is accused in Sessions Case No.127 of 2009 for the offences punishable under

Section 306, 498-A read with 34 of Indian Penal Code. In that case, PW 6 namely, Laxman s/o. Shivaji Ghobale was summoned by the prosecution. His examination-in-chief was recorded on 3rd August, 2015. The case was adjourned for his cross-examination to 12th August, 2015. On that day, an application was moved by the present petitioner/accused for adjournment, which was granted subject to payment of costs of Rs.250/- and the case was adjourned to 18th September, 2015.

. On 18th September, 2015, again an application for adjournment was moved by the petitioner/accused and it was also allowed subject to payment of costs of Rs.500/- and the matter was adjourned to 20th October, 2015.

. However, on that date, since the counsel for the petitioner/accused was unable to conduct the matter due to his medical check-up, another

application for adjournment came to be filed. However, the witness raised objection regarding his inconvenience and therefore, the case was directed to be proceeded without cross-examination of the said witness.

. Further, on 21st November, 2015, the petitioner /accused filed an application for recalling the witness. The same was rejected by the learned Addl. Sessions Judge on 26th November, 2015. Hence, the present Writ Petition.

4] The history of the case would show that the present petitioner/accused was dragging the matter unnecessarily by filing adjournment applications again and again, for cross-examination of the witness.

5] In the circumstances, however, only to see that the sessions case is decided by the Sessions

Court on merit, present Criminal Writ Petition deserves to be allowed on certain conditions.

6] Hence, the following order :-

A] Criminal Writ Petition is hereby allowed.

B] The impugned order dated 26th November, 2015 passed by learned Addl. Sessions Judge is hereby set aside.

C] The petitioner is directed to deposit costs of Rs.2,000/- for recalling the witness i.e. PW 6 - Laxman s/o. Shivaji Ghobale, before the date on which, the witness would be examined. The witness would be entitled to receive the amount of costs to be deposited by the present petitioner.

D] The petitioner shall communicate this order to the witness independently by Speed Post A.D.

E] It is directed that the petitioner/accused shall not seek adjournment in future and see that there would be early conclusion of the trial.

F] Learned Addl. Sessions Judge to fix the date for recalling of the witness.

G] The petition is disposed of in the above terms.

[M.T. JOSHI, J.]

kbp