

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 30 OF 2016

1. Niranjankumar K. Somshekhar Naidu,
Age: 32 years, Occ: Medical Practitioner,
R/o. 202, Dollar Residency, Dollar
Colony, 1st Main, Banglore-94.
2. K. Somshekhar Naidu,
Age: 60 years, Occ: Medical Practitioner,
3. Lilawati w/o K. Somshekhar Naidu,
Age: 56 years, Occ: Household,
Both R/o. Bery Stree Palipat
Thiruvellur (Tamilnadu State). ...Petitioners

versus

The State of Maharashtra
Through Police Station Officer,
Deopur Police Station,
Dhule, Tq. & Dist. Dhule. ...Respondent

.....
Mr. P.B. Pawar, Advocate for petitioners
Mr. A.R. Kale, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 9th MARCH, 2016

ORAL ORDER :

This petition is by the accused questioning the illegality of the order passed by the Chief Judicial Magistrate, Dhule on 17/10/2015 in Regular Criminal Case No. 219 of 2007.

2. It is claimed by the petitioners that they are resident of

Karnataka State and as such, it is difficult for them to attend trial before learned Magistrate alongwith their Lawyer from Banglore on the given date for cross examination of the witnesses and as such, pursuant to the provisions of Section 242(3) of Code of Criminal Procedure, examination-in-chief of prosecution witnesses be recorded at once and thereafter, the petitioners through their Advocate from Banglore will be in a position to cross examine them.

3. In support of above referred contentions, learned Counsel for the petitioners has invited attention of this Court to hardship faced by them, in view of the fact that their Lawyer is coming from Banglore.

4. Learned Counsel for the petitioners would then urge that pursuant to the provisions of Section 242(3) of Code of Criminal Procedure, prayer of the petitioners be allowed and they be permitted to cross examine all prosecution witnesses on one given date.

5. In my opinion, the order impugned does not call for interference, particularly in the extraordinary jurisdiction vested under Article 227 of the Constitution, as learned Magistrate, while rejecting the application, was alive of the fact as regards pendency of prosecution for quite long time against the petitioners/accused, who

are noticed to be not co-operating in the proceedings. It is required to be noted that hardship as is pleaded for seeking shelter under the proviso to sub section (3) of Section 242 of Code of Criminal Procedure is artificial and the present petitioners cannot be permitted to take benefit of their own, as artificial hardship is created by them.

6. In view of above, no case for interference is made out. The petition fails, stand dismissed.

[N.W. SAMBRE, J.]