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

**CRIMINAL WRIT PETITION NO.410 OF 2016**

Mansing @ Janu s/o Prabhu Rathod,  
Age : 34 years, Occu.Agriculture,  
R/o Radi Tanda, Tq. Ambajogai,  
Dist. Beed

..PETITIONER

VERSUS

The State of Maharashtra,  
Through Police Station, Ambajogai,  
Tq. Ambajogai, Dist. Beed

..RESPONDENT

Mr S.A. Ambad, Advocate for petitioner;  
Ms R.P. Gaur , Addl. Public Prosecutor for respondent

**CORAM : N.W. SAMBRE, J.**

**DATE : 6th April, 2016**

**ORAL ORDER :**

Heard.

2. The prosecution, vide application Exh.52, in Sessions Case No.5 of 2014, has claimed that the prosecution witness Dayanand Dagdu Aade has turned hostile. Perusal of the evidence of the said witness does not depict that the Court has declared him hostile, pursuant to request made by the prosecution.

3. In the above background, in my opinion, the mode as is followed for re-calling the said witness under section 311 of the Code of Criminal Procedure for cross-examination cannot be identified in law.

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4. Thus, in my opinion, it will be appropriate to observe that the prosecution first should seek permission of the Court to declare the said witness hostile and then to make a prayer for his cross-examination.

5. With the above observations, Criminal Writ Petition stands disposed of.

**(N.W. SAMBRE, J.)**

amj