

(1)

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

CRIMINAL WRIT PETITION NO.979 OF 2016

Sayed Azar Sayed Gafur,
Age : 43 years, Occ.Service
Police Head Constable B. No.795,
r/o Flat No.2, Patel Nagar,
Beed Bypass Road,
Aurangabad

..PETITIONER

VERSUS

The State of Maharashtra

..RESPONDENT

Mr N.S. Ghanekar, Advocate for petitioner;
Mr N.T. Bhagat, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 5th October, 2016

ORAL ORDER :

In Special Case No.15 of 2011, pending on the file of learned Special Judge, Aurangabad, the evidence of P.W.2 Laxman came to be recorded at Exh.36.

2. After the examination-in-chief of P.W.2 Laxman was recorded, an application for adjournment came to be moved by the present petitioner, which came to be allowed by the learned Special Judge on 22nd January, 2016.

(2)

3. On 27th June, 2016, another adjournment application came to be moved by the petitioner, which came to be rejected on the very same day, as the witness was present since morning.

4. Thereafter, application Exh.46 came to be moved praying therein recalling of witness P.W.2 Laxman for cross-examination and for setting aside an order of “no cross”, passed below Exh.46 on 13th July, 2016. As such, present petition.

5. Learned Counsel appearing on behalf of the petitioner assures this Court that if, in the interest of justice; by way of last chance, an opportunity is given to the petitioner, the petitioner shall cross-examine P.W.2 Laxman and shall not seek any further adjournment in the special case, till its conclusion.

6. The undertaking as is given by the learned Counsel is accepted.

7. By way of last chance and in the interest of justice, the prayer for recalling of P.W.2 Laxman, deserves to be allowed. Thus, following order :-

The order dated 27th June, 2016 of “no cross”, passed by Special Judge, Aurangabad, in Special Case No.15 of 2011, is set aside, subject to deposit of costs of Rs.5,000/- before the learned Special Judge.

(3)

The learned Special Judge will be at liberty to deal with the said amount.

The prayer for re-calling of P.W.2 Laxman stands allowed.

Criminal Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

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