

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

CRIMINAL WRIT PETITION NO. 1553 OF 2015

MILIND S/O SURESH ZAREKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioner : Mr A C Darandale
APP for Respondent 1: Mr N B Patil
Mr U S Malte Advocate for respondents no.2 to 6

...
CORAM : V.K. JADHAV, J.
Dated: January 11, 2016

...
PER COURT :-

1. The petitioner is the original complainant and on the basis of his complaint, Crime No.I-153/2013 for the offence punishable u/s 306 read with section 34 of the Indian Penal Code is registered with Jawahar Nagar Police Station, Aurangabad against the respondent/accused persons. After completion of the investigation, charge sheet was submitted and in due course case was committed to the Sessions Court. After completion of the prosecution evidence, the statement of the accused nos. 1 to 6 were recorded by the learned Sessions Judge, as provided under section 313 of Criminal Procedure Code.

2. The petitioner/original complainant alongwith Special Public Prosecutor filed an application at Exh.169 praying therein that incriminating evidence of all 21 witnesses may be put forth to all accused persons. Even alongwith an application at Exh.169, the proposed questions in the form of questionnaire came to be placed at Exh.171.

3. The learned Additional Sessions Judge, Aurangabad, by order dated 4.12.2015 rejected the application. Hence, this Writ Petition.

4. The learned Additional Sessions judge, Aurangabad on going through the questionnaire submitted by the prosecution observed that, it is nothing but the repetition of the circumstances and nothing more. The learned Sessions Judge, Aurangabad, has observed that there is no need to put the questions to accused persons and accordingly rejected the application.

5. Learned counsel appearing for respondents no. 2 to 7/original accused nos. 1 to 6, at this stage, made a statement that, the respondents/original accused nos. 1 to 6 have no objection, if as per the questions at Exh.171 the incriminating circumstances as appearing therein put to the accused persons while the examination under section 313 of the Criminal Procedure Code. Learned counsel for respondents no. 2 to 6, on instructions, submits that, consent is given with a condition that same should not cause prejudice to the defence of the accused persons.

6. I have heard the learned APP.

7. In the light of the above, Writ Petition is hereby allowed. The order dated 4.12.2015 passed by the learned Additional Sessions Judge, Aurangabad below Exh.169 in Sessions Case

No.128/2014 is hereby quashed and set aside.

8. The learned Judge is hereby directed to put the questions submitted by the prosecution at Exh.171 to all the accused persons in their examination under section 313 of the Criminal Procedure Code.

9. Writ Petition is accordingly disposed of.

10. Parties to act on an authenticated copy of this order.

(V.K. JADHAV, J.)

...

aaa/-