

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

Criminal Writ Petition No. 1624 of 2016

District : Aurangabad

Padmakar s/o. Eknath Chabukswar,
Age : 35 years,
Occupation : Labour,
R/o. Pimpalwadi Pirachi,
Taluka Paithan,
District Aurangabad. .. Petitioner.

versus

The State of Maharashtra. .. Respondent.

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*Mr. Rupesh A. Jaiswal, Advocate, holding for
Mr. Tathagat V. Kamble, Advocate, for the
petitioner.*

*Mr. A.R. Kale, Addl. Public Prosecutor, for
the respondent.*

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CORAM : Z.A. HAQ, J.

DATE : 19TH DECEMBER 2016

ORAL JUDGMENT :

Heard Adv. Mr. R.A. Jaiswal h/f. Adv. Mr.
T.V. Kamble for the petitioner, and the APP Mr. A.R.
Kale for the respondent.

02. Rule. Rule made returnable forthwith.

03. The petitioner (accused) has challenged the order passed by the Sessions Court rejecting the application filed by the accused praying that prosecution witness No.02 (Sunil Haribhau Dhawale) be recalled.

04. The learned Addl. Sessions Judge has recorded all the relevant facts in paragraph No.03 of the impugned order which shows that the witness was recalled on three occasions on the request on behalf of the accused, however, every time the learned Advocate representing the accused failed to cross-examine the witness.

05. The impugned order does not suffer from any illegality and there is no error in exercise of jurisdiction by the learned Addl. Sessions Judge. However, to subserve the ends of justice, I feel it appropriate to grant one more opportunity to the accused to cross-examine the concerned witness but on conditions as recorded in this order.

06. Hence, the following order :-

(a) If the petitioner - accused deposits Rs. 20,000/- (Rupees twenty thousand) before the Sessions Court within two weeks, the prosecution witness No.02 (Sunil Haribhau Deshmukh) shall be recalled.

(b) If the prosecution witness No.02 (Sunil Haribhau Dhawale) is not cross-examined on the day on which his cross-examination will be scheduled, the petitioner - accused will not be entitled for any further indulgence and the learned Addl. Sessions Judge shall proceed in the matter.

(c) The disbursement of amount of costs of Rs. 20,000/- that would be deposited by the petitioner - accused will be as per the order which may be passed by the learned Addl. Sessions Judge. The learned Addl. Sessions Judge may direct payment of some amount to the prosecution witness No.02 (Sunil Haribhau Dhawale) for the inconvenience caused to him and the balance amount shall be deposited with the State.

(d) The Writ Petition is disposed in the above terms.

(Z.A. HAQ)
JUDGE

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