

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2000 OF 2017

M/s Shriram General Insurance Co. Ltd
Having its Regd. and Corp. office at E-8
ERPI RIICO Industrial Area, Sitapura
Jaipur-302022 (Rajasthan)

...Petitioner

Versus

1. Santosh s/o Laxman Gadade
Aged 25 years, Occ. Service as a Driver
Now Nil r/o Lasina Tq. & Dist. Hingoli
2. Sanjay s/o Pundlikrao Zade
Aged 35 years, Occ. Agril and Owner of Jeep
MH-29-C-1512 r/o Dewada Nagar
Hingoli Dist. Parbhani

...Respondents

...

Mr. Vinayak N. Upadhye, Advocate for petitioner

...

[CORAM: SUNIL P. DESHMUKH, J.]

Date: 03rd July, 2017

JUDGMENT :

1. Heard learned counsel for the petitioner.
2. Petitioner challenges the order dated 26th October, 2016 passed by civil judge, senior division, Hingoli on

exhibit-38 in WC NFA. no. 28 of 2012. Said application has been filed by petitioner/respondent no. 2, seeking direction to issue witness summons to the police Head constable, badge no. 361, M.S, Karad police Station and Investigation officer Mr. U. T. Jadhav, police station, Basamba, taluka. and district Hingoli of the same police station along with police papers in FIR no. 86 of 2011 dated 2nd October, 2011. Learned civil judge, senior division rejected the application.

3. According to learned counsel, It would be necessary and in the interest of justice to verify the police papers and police personnel on involvement of Jeep No. MH-29-C-1512, is doubtful.

4. Learned counsel submits that there is delay in lodging FIR and further it is duty of the claimant to prove the police papers having produced, and petitioner intended to cross-examine the police officer concerned, however, claimant had intentionally avoided the same.

5. The court has adverted to the submissions on behalf of petitioner that suspicious circumstances exist in investigation of the offence registered against the petitioner in the same FIR.

6. Having gone through the order, it appears that the court has considered that the circumstances which the petitioner claims to be suspicious, cannot be said to be such, as on the date, as the same is not substantiated by any material by the petitioner.

7. Learned judge has considered that in order to invoke provisions of order XVI, Rule 14 of Code of Civil Procedure, the court has to reach to a conclusion whether to call any person as a court witness or not and present is not a situation according to learned judge to call police personnel as court witness by invoking provisions of order XVI, Rule 14 of Code of Civil Procedure.

8. In the circumstances, writ petition stands rejected.

9. The petitioner, however, may resort to section 105 of the Code of Civil Procedure, if occasion arises.

[SUNIL P. DESHMUKH, J.]