

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2394 OF 2019

Nandkumar Baburao Madane & Ors.

...Petitioners

Versus

The State of Maharashtra

...Respondents

Mr. R.M. Haridas for petitioner.

Mr. N.B. Patil, APP for Respondent-State.

**CORAM : S. S. SHINDE, J
DATE : 13th August 2019**

P.C.

1. Learned counsel appearing for the petitioners submit that, petitioners wish to examine the Medical Officer in their defence. It is submitted that, Advocate who appeared for the petitioners, when the Medical Officer was examined, did not put certain questions in his cross examination. Learned counsel appearing for the petitioners submit that, no prejudice will be caused to the prosecution, if the said Medical Officer is recalled for the cross examination.

2. In the alternative and without prejudice to the contentions raised herein above, learned counsel appearing for the petitioners submit that, in case this Court is not inclined to entertain this petition, direction may be given to the concerned Court to club both cases for hearing together, since said cases are arising out of same incident.

3. Learned APP appearing for the State submits that, already Medical Officer has been examined and the opportunity to cross examine him has been
Bhagyawant

availed by the petitioners. He further submits that, the case which is arising out of the complaint filed by the petitioner is awaiting for trial. The Trial Court has already observed that, in the said case which is arising out of same incident, it will be open for the petitioner to examine the Medical Officer.

4. Upon hearing learned counsel appearing for the petitioners and learned APP appearing for State and perusal of impugned order, this Court is of the opinion that, since the Medical Officer is already examined and still the petitioners have opportunity to examine the Medical Officer in the case which is arising out of complaint filed by the petitioner from the same incident, the prayer of the petitioners deserves no consideration. However, learned counsel appearing for the petitioners is right in advancing alternative submission that, cases which are pending before the same Court may be clubbed together for hearing. In that respect, since both the cases are pending before the same Court, liberty to petitioners to apply for hearing their case immediately, after recording of evidence of the first case is over. In case such prayer is made by the petitioner, the concerned Court to consider such prayer, keeping in view the relevant procedure and try to pronounce the judgment in both the cases simultaneously.

5. With the above observation, writ petition stands rejected.

[S. S. SHINDE , J]