

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

WRIT PETITION NO. 5785 OF 2018

Santosh Haribhau Pangul

...Petitioner

Versus

State of Maharashtra

...Respondent

.....

Ms.Priyanka H. Chavan for the Petitioner.

Mr. A.R.Patil, APP for the Respondent -State.

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CORAM: MRS.MRIDULA BHATKAR, J.

DATED : 09 JANUARY 2019

P.C.:

1. Upon urgent mentioning, taken on production board.
2. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission as short issue is involved.
3. This Petition is directed against the order dated 29th November, 2018 passed by the learned Additional Sessions Judge, Pune, thereby rejecting the application filed under section 311 of the Code of Criminal Procedure, 1973 ("the Cr.P.C.") in Sessions Case No. 746 of 2015.
4. The petitioner/accused is facing a charge of murder under section 302 of the Indian Penal Code. The examination of chief of PW-1

Chandar Pandurang More was recorded on 26th October, 2018. On that day, the time was sought by the petitioner/ accused, however, it was rejected. In the order dated 29th November, 2018, it was mentioned that the counsel of the accused had declined to cross-examine PW 1 Chandar More. Thereafter, an application was made under section 311 of the Cr.P.C. for recording cross-examination of PW -1 Chandar More, however, it was rejected. Hence, this Petition.

5. The learned counsel for the petitioner has submitted that the learned Sessions Judge ought not to have rejected the said application when the accused is facing serious charge of murder.

6. The learned APP submits to the order passed by this Court.

7. In view of the above submissions, I allow this Petition with following order :

ORDER

The order dated 29th November, 2018 passed by the learned Additional Sessions Judge, Pune in Sessions Case No. 746 of 2015 is hereby quashed and set aside.

8. The learned counsel for the petitioner has informed that now, the matter is fixed before the Sessions Court on 16th January, 2019.

9. PW-1 Chandar More to remain present on 16th January, 2019. Prosecution to make an arrangement accordingly and the counsel of the accused to cross-examine PW-1 Chandar More.
10. Rule is made absolute in the above terms.

(MRIDULA BHATKAR, J.)