

**CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1106 OF 2020**

None for the Petitioners.
Ms.M.H. Mhatre, APP for the State.

P.C.:

1] This Petition takes an exception to the order dated 7th February, 2020 passed by Sessions Court, Mumbai in Criminal Revision Application No.991 of 2019, by which the learned Sessions Court confirmed the order dated 11th September, 2019 passed by the learned Metropolitan Magistrate, Mazgaon at Sewree, Mumbai, In C.C. No.1837/SS/2016. By the order dated 11th September, 2019, learned MM rejected the application of the present petitioner for issuance of summons to the defence witness.

2] I have perused the order dated 11th September, 2019. The said order reads thus :

“ Heard both sides. The case is pending for defense evidence since 14/12/2018. On 27/6/2019 accused made application for issuance of summons to witness and said application was allowed on 27/6/2019. Since 27/6/2019 till 5/9/2019 accused has not collected summons and therefore by passing order below Exh.-1, this court closed further defense evidence of the accused. Now today on behalf of accused this application is filed. The conduct of the accused from the record shows that he just wants to delay the matter. If now at this stage if this application is allowed then it would amount to abuse of process of Court. Considering the nature of offence, I am not inclined to allow this application. Hence, this application is rejected.”

3] It thus appears from the impugned order that application was initially allowed on 27th June, 2019 and summons was not collected by the present Petitioner till 5th September, 2019 i.e. practically for more than two months. It further appears that then defence evidence was also closed by the learned trial Court.

4] I have also perused the application filed by the Petitioner for issuing fresh summons to defence witness. There is no explanation at all as to what prevented the Petitioner to collect the summons pursuant to the order dated 27th June, 2019 till 5th September, 2019. The learned trial Court has observed that the Petitioner wants to just delay the matter. As such, no interference is called for in the impugned order in extraordinary writ jurisdiction. Hence, Petition is dismissed.

[N.R.BORKAR, J]