

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

945 CRIMINAL REVISION APPLICATION NO.234 OF 2022

THE STATE OF MAHARASHTRA
VERSUS
JITENDRA SITARAM WAGH AND OTHERS

...
APP for Applicant-State : Mr. V. M. Kagne.
Advocate for Respondent Nos.1 to 4 : Smt. S. E. Waghmare
(Appointed) – absent.

...

CORAM : S. G. MEHARE, J.
DATE : 16.11.2022

PER COURT :-

1. Heard the learned APP for the applicant-State.
2. The revision has been preferred against the order of learned District Judge-1 refusing to issue the witness summons to the Doctor and carrier in Sessions Trial No.173 of 2014, dated 07.06.2022.
3. Learned counsel Smt. Waghmare was appointed to plead for respondent Nos.1 to 4, but she did not appear.
4. Learned APP would submit that the witnesses who were requested to be summoned were listed in the charge sheet. Witness Nos.2 and 3 were the medical practitioners and witness No.1 was the carrier. Learned APP would submit that

all the witnesses are relevant to prove the charges against the accused. They have an independent evidence. However, the reasons assigned by the learned Sessions Court are erroneous that they are not material/important witnesses. The interest of victim may affect, if such material witnesses are not allowed to be examined. The impugned order is incorrect and illegal. Hence, it may be set aside.

5. It appears that the charges framed against the accused are serious. Section 230 of Cr.P.C. provides for fixing a date for the prosecution evidence. On submitting the list of witnesses, the learned Sessions Judge shall issue process for compelling the attendance of any witness. The witnesses who were requested to be called were listed in the list of the witnesses in the charge sheet. It is inappropriate to assess the importance of the witnesses before their examination. Hence, the Court is of the opinion that the reasons assigned by the learned Sessions Judge while rejecting the prayer to call the witnesses named below Exh.84 appears to be incorrect and erroneous. The State has a good case to warrant the impugned order. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) Criminal Revision Application is allowed.
- (ii) The order refusing to issue witness summons to witness Nos.1, 2 and 3 passed by the learned Additional Sessions Judge-1 in Sessions Trial No.173 of 2014, dated 07.06.2022 is quashed and set aside.
- (iii) Witness summons be issued to the witnesses as prayed in the said application.

(S. G. MEHARE, J.)

...

vmk/-