

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

958 CRIMINAL REVISION APPLICATION NO.361 OF 2022

THE STATE OF MAHARASHTRA
VERSUS
SANKET PRALHAD JAYBHAI AND OTHERS

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APP for applicant/State : Mr.S.B. Narwade
Advocate for respondent no.1: Mr. G.A. Ambildhage
Advocate for respondent nos.2 & 4:Mr.N.S.Ghanekar
Advocate for respondent no.3 : Mr.B.S. Bhale

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CORAM : S.G. MEHARE, J.
DATE : DECEMBER 14, 2022

PER COURT :-

1. Heard learned APP for applicant/State and learned respective counsel for the respondents.

2. Prosecution has impugned order of the learned Additional Sessions Judge, Aurangabad passed below Exhibit-281 in Sessions Case No.156/2018 dated 28.11.2022. The learned Additional Sessions Judge has been pleased to reject the prosecution's application under section 311 of the Code of Criminal Procedure to recall the witness.

3. Admittedly, the Sessions Case is about to finish. However, the reasons assigned by the learned Additional Sessions Judge, Aurangabad rejecting the prayer to recall the witness appear not good in law. No prejudice would be caused to

the accused if the witness is recalled. Their right to cross-examine is protected. They have right to cross-examine the witness. The justice demands the interference. Hence the order :-

ORDER

- (i) The impugned order is quashed and set aside.
- (ii) The application below Exhibit-281 filed in Sessions Case No.156/2018 is allowed.
- (iii) The accused could be given opportunity to cross-examine the said witness.
- (iv) In above terms, the revision stands allowed.
- (v) The prosecution should not waste the time and try to complete the trial at the earliest.

(S.G. MEHARE, J.)

SGA