

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.871 OF 2022

Ravishankar s/o Chandrabhan Gupta
Aged about 45 years,
Occ. Business, R/o Near Sapna
Cloth Market, Rameshwari Sq. Nagpur

...PETITIONER

---VERSUS---

1. Narayan s/o Manohar Patki,
Aged about 69 years, Occ.-
Retired, R/o 102, Bhide Road,
Sitabuldi, Nagpur

...RESPONDENT

Shri U.Y. Son,usare, Advocate for petitioner.
Shri A.R. Agrawal, Advocate for respondent.

CORAM : G.A. SANAP, J.
DATE : DECEMBER 23, 2022.

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally by consent of the learned Advocates for the parties. Perused the record and proceedings.

2. This Court vide order dated 24.11.2022 had granted the permission to the petitioner to cross examine the complainant. Specific date for cross examination subject to other condition was fixed. The petitioner/accused was directed to conduct the cross examination on 01.12.2022 in one working session.

3. In this petition, it is submitted that due to unfortunate incident of death of father-in-law of advocate of the petitioner, the advocate was required to attend the funeral on 01.12.2022. Petitioner was present before the Court. He made an application for adjournment on this ground but learned Magistrate, in view of the observations made by this Court rejected the same.

4. It is to be noted that there was no fault on the part of the petitioner/accused. He was very much present before the Court. Absence of the advocate for this genuine reason has been supported by the documentary evidence. Therefore, in my view, the substantive relief granted in favour of the petitioner cannot be taken away. As such, the order dated 01.12.2022 passed below Exh. 51 in S.C.C. No.10006/2017 is set aside. The application is allowed.

5. The petitioner and advocate shall remain present before Judicial Magistrate First Class, Nagpur on 06.01.2023 and shall conduct the cross examination in terms of directions recorded in order dated 24.11.2022 passed by this Court.

6. Criminal Writ Petition is allowed and disposed of. Rule is made absolute accordingly.

JUDGE

Manisha