

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

32 CRIMINAL WRIT PETITION NO.347 OF 2020

**GANESH HIRAMAN PIMPLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. G. K. Muneshwar, Advocate for the petitioner
Mr. P. N. Kulkarni, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 17th MARCH, 2023

P. C.

1. Heard the learned advocate for the parties at length.
2. By way of writ petition, the petitioner has challenged the order passed below Exh. 1 by the learned JMFC, Hadgaon dated 03-12-2018 in RCC No. 9/2014 under Section 311 allowing the prayer by learned APP to examine two witnesses for the prosecution.
3. Though the said order was challenged by filing a revision, his revision application came to be dismissed as not maintainable against interlocutory order. The main ground on

which the petition is filed is that the complainant was partly examined in examination-in-chief on 27-02-2018. However, before completing the examination-in-chief he left the court and thereafter never turned back to the court. The learned trial judge was left with no option but to examine the other witnesses. Later on by order dated 22-11-2018 the evidence of the prosecution came to be closed and thereafter on 19-11-2018 even statement under section 313 was recorded and the matter was fixed for argument and that stage this application was filed. The petitioner submits that therefore this exercise was arbitrary. He further submits that even learned PP had not filed proper application under Section 311 and still the court has passed the order. He has also raised some other grounds which need not be go into.

4. Learned advocate for the petitioner relied upon the judgment delivered by the Hon'ble Apex Court reported in (2013) 14 SCC 461 in the case of Rajaram Prasad Yadav Vs State of Bihar and another wherein various principles are given for

allowing the application under Section 311 of the Cr. P. C. The principles are laid down. Though he relied upon the judgment, however this court finds that no case is made out to show that there is violation of any of the principles laid down in the reported judgment.

5. Learned APP opposes the petition stating that the learned trial court has rightly passed the order. Learned Trial court has power to pass such order vide section 311. The court has rightly exercised the said jurisdiction and prays for rejection of the petition.

6. After hearing the parties and going through the material, this court finds that no case is made out for causing interference in the petition. The petition is therefore, dismissed.

7. Since the trial is pending since 2014 the trial court is expected to complete the trial within a period of two months from today.

[KISHORE C. SANT, J.]