

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

931 CRIMINAL WRIT PETITION NO.1032 OF 2022

**DEVYANI D/O. GOVIND AMBILWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.S.S. Halkude, Advocate for the petitioner.
Mrs.D.S. Jape, APP for the respondent/State.
Mr.M.P. Kale, Advocate for respondent Nos.2,4,6,7 & 8.

**CORAM : KISHORE C. SANT, J.
DATED : 02.02.2023**

PC :-

01. It is seen that though offence was registered in 2013 and the charge-sheet was also filed in 2013 itself, till now not a single witness is examined, because of some or other applications pending before the learned Sessions Court. From letter dated 01.04.2022 it is seen that even the P.I. Hongoli had submitted before the Court pursuant to the Show Cause Notice that the investigation is not completed on the aspect of the lady who allegedly was standing by the side of accused No.1 personating to be complainant at the time of marriage. It is informed that since the earlier I.O. is transferred, the investigation was handed over to another I.O. From the communication it appears that he had given a letter on 16.08.2014. However, there is no progress. Be as it is.

02. By this petition the petitioner has challenged order passed by the learned Sessions Judge dated 05.05.2022, wherein he had rejected the application below Exh.214 seeking further investigation under section 173(8) of the Cr.P.C. Since there was already order rejecting application that was filed by the informant herself, while deciding the earlier application, Court had rejected that application stating that the application is not moved by the Public Prosecutor.

03. The petitioner is, therefore, assailing the order saying that the learned Sessions Court in the earlier application had observed that the application is not moved through proper authority and in the other though it was also filed through Public Prosecutor i.e. proper authority, did not consider the same. Hence, the earlier application was rejected. Thus, some substance appears in the petition.

04. However, looking at the fact and the submissions of the respondents/accused that since 2013 they are facing trial and till now not a single witness is examined, no purpose would be served by allowing

application for further investigation. Already charge-sheet is filed and now it would not be in the interest of justice to further delay the trial under the pretext of further investigation. This fact also needs to be taken into consideration. This Court finds that ends of justice can be met by directing the learned Sessions Judge at Parbhani to make endeavour to commence the trial and examine the witness. In case some case is made out, the prosecution is at liberty to again make similar application only when it is absolutely necessary in the facts of the case and same will be considered on merit.

05. The petition is, thus, disposed off in above terms.

[KISHORE C. SANT, J.]