

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

51 CRIMINAL WRIT PETITION NO.1250 OF 2022

**INDUBAI W/O. GANESH MORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Chavan Kalyan S.
APP for Respondents- State : Mr. R. D. Sanap
Advocate for Respondent Nos. 2 and 3 : Mr.S. B. Solanke
...

CORAM : KISHORE C. SANT, J.

DATE : 25.04.2023

PER COURT :

01. Heard the parties. Taken up for final disposal by consent.
02. The order passed by the learned Judicial Magistrate First Class dated 01.12.2021 on Exhibit 1 in RCC No. 23/2020 closing the prosecution evidence is under challenge. The subsequent order is passed on 29.08.2022 whereby application of the informant to issue fresh summons to remaining witnesses came to be rejected.
03. The respondents 2 and 3 are facing prosecution which is present petition dated 05.02.2016 though the complaint initially it was S.C.C. 119/2016 is came to be re-numbered as R.C.C. No. 23/2020. After examination of two witnesses, the prosecution could

not secure presence of remaining witnesses and therefore, the order was passed against the prosecution witnesses on 01.12.2021. The informant thereafter filed application Exhibit 34 immediately on 07.12.2021 praying for setting aside the order closing of evidence and prayed for recording evidence of the remaining witnesses. The respondent opposed the application stating that sufficient opportunities were given to the prosecution and still the prosecution could not examine the witnesses. It was also stated that the application was not maintainable. The learned Judicial Magistrate First Class, Dharur passed the order dated 29.08.2022 and rejected the application. Without going in to the aspect of maintainability of such application, this Court finds that prosecution needs opportunity to lead evidence during trial. There is substance in the submission of learned Advocate for respondent Nos. 2 and 3 that since for 5 years, no effective steps were taken. However, this can be taken care of by directing the learned trial Court to complete the trial within a period of six months from today.

04. Needless to say that it shall be the responsibility of the petitioner to keep the witnesses present on the dates, prosecution shall ensure that the witnesses are produced before the Court without unnecessary adjournments, even if prosecution fails to produce the

witnesses within six months, the trial Court to proceed further and dispose of trial. In view of this, both order dtd. 01.12.2021 and 29.08.2022 are set aside.

05. In view of the above, the Cri.Writ Petition stands disposed of.

(KISHORE C. SANT, J.)

shp/-