

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

**52 CRIMINAL WRIT PETITION NO.1470 OF 2022**

**HARI GANGADHAR GUNJAL  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Manoj A. Dond, Advocate for the petitioner  
Mr. D. S. Jape, APP for the respondents/State

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

**DATE : 10<sup>th</sup> APRIL, 2023**

**P C.**

1. Heard the learned advocate for the parties for sometime.

2. The petitioner has approached this court seeking quashment of the order dated 01-03-2019 passed by the Additional Sessions Judge, Kopergaon in Criminal Revision No. 45/2016 wherein the learned Sessions Court had allowed the revision application of the accused persons and directed to remand back the matter to the learned JMFC, Rahata with the direction to decide the same afresh after giving proper and

sufficient opportunity of hearing to both the parties in accordance with law. It was further directed to the learned JMFC, Rahata to dispose off the matter as expeditiously as possible. The parties were directed to appear suo motu before the learned Magistrate on 12-03-2019. The petitioner who is original complainant submits that in spite of this order accused persons did not remain present before the learned trial court and till they have not appeared before the trial court. He had moved an application seeking issuance of warrant and same was issued. However, said warrant came to be cancelled on the application of the accused. The petitioner has not further challenged the order passed by the learned Sessions Judge. By submitting that the learned Magistrate is taking an order of the Sessions Court as to that the accused has to suo moto appear and has not taken effective steps to ensure appearance of the accused persons before the learned trial court. He also produced on record the order dated 29-07-2022 wherein the application of the accused No. 2 was allowed i.e. respondent No.3 in the present petition. Moved the application for cancellation of the

warrant.

3. Considering this, grievance of the petitioner appears that respondents are not appearing before the learned trial court. This court does not find any reason to interfere in the order which is impugned in this petition. However, it is clarified that the learned Magistrate is sufficiently equipped with the necessary powers to ensure appearance of the accused persons. When the accused person is not appearing before the learned trial court, it is for the court to take effective steps and to see that accused persons are before the court. The learned Magistrate to take such effective steps to ensure appearance of the accused persons. The learned Magistrate is expected to take effective steps in RTC No. 271/2014.

4. With this, the criminal writ petition stands disposed off.

**[KISHORE C. SANT, J.]**