

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

CRIMINAL WRIT PETITION NO. 1595 OF 2022

Govind Prabhakar Jadhav

.. Petitioner

Versus

The State of Maharashtra
Through Police Station Hatta,
Dist. Parbhani.

.. Respondent

Mr. Sudarshan J. Salunke, Advocate for the Petitioner.
Mr. P. N. Kutti, APP for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 26th APRIL, 2023.

P. C. :-

. The order dated 07.11.2022 passed by the learned Additional Sessions Judge, Basmathnagar in Sessions Case No. 47/2020 is under challenge. The petitioner is the accused facing trial for the offences punishable under Sections 302, 304(B), 498(A), 323, 504, 506 of the Indian Penal Code.

2. In short the story of the prosecution is that, the victim - deceased wife of the present petitioner - accused was harassed by him on demand of money from her parents. On 10.06.2020 the informant – father of the deceased received a call at 4.30 a.m. from cousin of the accused that his daughter namely Meera died. On that, a complaint

was filed. After investigation and filing of a charge-sheet the trial started. The trial is practically over and the matter was fixed for judgment. On three dates the matter was adjourned at the stage of judgment. The learned Judge at that stage passed an order under Section 311 of the Code of Criminal Procedure and directed to issue witness summons to Ramesh Prabhakar Jadhav i.e. brother of the accused, his wife and father and mother of the present accused. It is observed that even the parents of the victim have turned hostile and therefore, it was felt necessary to call these witnesses. It is observed that, the prosecution has not examined these witnesses. The said order is challenged on the ground that no such order is necessary when no application was filed even by the prosecution. These persons were not cited as witnesses even in the charge-sheet. The statements also are not recorded by the I.O. Already seven witnesses are examined by the prosecution and the evidence is closed after that. No purpose would be served by examining these witnesses. Now examining these witnesses would only amount to filling up lacuna in the prosecution case which is not permissible.

3. Learned A.P.P fairly submits that, no any application was filed by the prosecution. Even the statements of these persons were not recorded during the course of evidence. He submits that, however, now chief examination of three witnesses is already recorded by the Court

before passing interim order by this Court in the petition. He therefore submits that, now it would be in the interest of justice if the witnesses are cross-examined. He requests the Court to pass appropriate order

4. Considering the nature of the order, this Court finds that, the exercise of calling these witnesses only would be killing of time. It is clear that, the prosecution has not brought sufficient evidence on record and it is for this reason the learned Judge felt it necessary to call witnesses.

5. Considering the submissions, this Court finds that, when the matter was adjourned at the stage of judgment passing of such order is unjustifiable. Since the evidence is already recorded it would be in the interest of justice to complete cross-examination and to dispose of the trial within a period of two (02) months from today. Fourth person who is not examined need not be called for evidence.

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

(KISHORE C. SANT, J.)

P.S.B.