

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

CRIMINAL WRIT PETITION NO.1655 OF 2019

**CHANCHALABAI W/O. PRABHAKAR DAKE
VERSUS
THE STATE OF MAHARASHTRA**

Mr. G. S. Mote, Advocate h/f Mr. A. H. Kasliwal, Advocate for the petitioner

Mr. N. S. Shah, Advocate h/f Mr. S. V. Natu, Advocate for respondent Nos. 2 to 10.

CORAM : R. M. JOSHI, J.

DATE : 24th AUGUST, 2023

P.C. :-

1. Petitioner is a wife of informant in RCC No. 117 of 2007, she has made grievance in respect of rejection of her application for calling upon prosecution to produce medical papers of S.R.T.R. Medical College, Ambejogai connected with concerned crime. This application is rejected on the ground that evidence is over and all the witnesses already been examined and statement under Section 313 of Cr.P.C. is already recorded.

2. The record indicates that the accused are charged for the offences punishable under Sections 323 and other offence under IPC. The incident occurred in the year 2007 assault was caused on the informant, who later on died in the year 2009 and present petitioner is injured witness to

the said incident.

3. The report submitted by the learned APP indicates that the witness summons were issued to Dr. D. S. Deshmukh and Dr. S. R. Pathak. They however could not be served with summons and hence were not examined by the prosecution. The record further indicates that the Investigating Officer was also not examined before the Trial Court. Having regard to the nature of allegations against the accused and facts involved in this case, examination of the Medical Officer as well as the Investigating Officer is necessary for the just decision of the case. Merely because the learned Magistrate has closed the evidence of prosecution and recorded statement of accused under Section 313 of Cr.P.C, it can never be justified that relevant witnesses are not to be examined now. Moreover, Court cannot become helpless and mute spectator if the relevant witnesses are not brought before the Court. Only for this reason the learned Magistrate needs to be directed to call upon to take steps as provided by law and compell prosecution to examine these witnesses. The grievance made by the petitioner can be taken care if these Medical Officers are also called upon to bring along with them the relevant Medical papers pertaining to the injured persons in this crime. Learned Magistrate to direct prosecution to examine these witnesses as indicated above.

4. As the proceeding is pending before the learned Trial Court since 2007, the trial be concluded within a period of six (06) months from today. Petition stands disposed of in aforesaid terms.

(R. M. JOSHI, J.)

ssp