

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2959 OF 2023

Pradip Vasant Hegade

.. Petitioner

Versus

State of Maharashtra

.. Respondent

...

Mr. Rahul Walvekar with Mr.Kush M. Lahankar for the petitioner.

Mr.Y.M. Nakhwa, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 6th SEPTEMBER, 2023

P.C:-

1 On 19/4/2023, the petitioner/accused took out an application for issuance of summons to a witness which he intended to examine in his defence. The application is rejected by the Special Judge on 24/4/2023, but when the order is perused, it is devoid of any reasons qua Exhibit-95 and what the learned Judge has decided, is the application at Exhibit-38.

2 Since it is informed that the application of the prosecution to recall the witness u/s.313 of Cr.P.C is allowed, and in that case, the accused will have to again be called for examination.

3 Since it is the right of the accused to examine the witness in the defence and unless the learned Judge find the application to be frivolous and vexatious intending to prolong the proceedings, it could not have been refused. However, since the impugned order do not offer any reason for rejecting the application filed below Exhibit-95, the impugned order is set aside.

 The learned Judge is directed to pass an order on Exhibit-95 by keeping in mind that, in any case, on the application of the prosecution being allowed, the witness is being re-examined and the trial is not yet concluded.

 With the aforesaid direction, Writ Petition is dismissed.

(SMT. BHARATI DANGRE, J.)