

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL WRIT PETITION NO.1151 of 2023**

Pramod Lahu Jadhav .. Petitioner  
Versus  
The State of Maharashtra .. Respondent  
...

Mr. Aniket Vagal i/b Mr. Sharad M, for the petitioner  
Ms. Anamika Malhotra, APP for the State.  
Mr. Vijay Niwate, H.C, ACB, Mumbai.

**CORAM: BHARATI DANGRE, J.**  
**DATED : 3<sup>rd</sup> APRIL 2023**

**P.C:-**

1           The present petition is filed being aggrieved by the order dated 16/2/2023 passed by Special Judge, ACB, Bombay in ACB Special Case No. 86 of 2018.

          The accused moved an application under Section 311 of the Code of Criminal Procedure on the pretext that some questions which ought to have been put to PW 1, the complainant by inadvertence where not put to him and therefore, despite his cross-examination being over, he should be recalled as a witness.

2           The position of law as regards recalling of witness under Section 311 of Code of Criminal Procedure is well settled

being to be exercised in limited circumstances and in the grave situation, where prejudice would be claimed by the accused/ the applicant, but surely it cannot be exercised for illiciting some admissions, which were not put to a particular witness by a lawyer. The only ground on which the application is filed as projected is that some vital question by inadvertence are not put to the witness, and I do not think that within the scope of section 311, the recall of witness is permitted on such a ground.

The Special Judge has therefore, rightly rejected the application particularly, when the examination in chief of the complainant commenced on 27/11/2021 and it was concluded on 23/12/2022.

3            In any case the applicant has options left open to him through the panch witness, who are yet to be examined. No prejudice having been claimed and proved by not allowing recall of the said witness, by upholding the impugned order the application is rejected.

**( SMT. BHARATI DANGRE, J.)**