

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1917 OF 2023

Ravi Rao Addanki

.. Petitioner

Versus

Central Bureau of Investigation, EOW .. Respondents
and Anr

...

Mr. Hrishikesh S. Shinde for the petitioner.

Mr.Hiten Venegavkar, for CBI.

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

CORAM: BHARATI DANGRE, J.

DATED : 1st NOVEMBER, 2023

P.C:-

1 Petition is filed being aggrieved by an order dated 20/12/2022, passed by the Special Judge, CBI, ACB, Pune in Special Case No.60/2013, when his request for setting aside the order of the 'no cross' dated 17/2/2022 and for recalling of witness no.13, the complainant, came to be rejected.

 The petitioner is facing the trial as accused no.4 and while PW 13 was under cross-examination, an application for adjournment was filed as the counsel representing him had gone to attend the Sessions Court in Sangli and some other Advocate

was unable to present himself in the Court because of the viral symptoms.

The Special Judge felt perturbed, since the application was moved at the eleventh hour and since the witness had come to the Court from Chennai, and was working with the Bank, all these cumulative circumstances prompted him to reject the application for adjournment.

The necessary consequence followed i.e. PW No.13 could not be cross-examined by the present petitioner i.e. accused no.4.

2 Similar scenario prevailing, as regards accused no.9, when the Special Judge refused to recall the 'no cross' order passed on 17/2/2022 and declined the cross-examination of Witness no.13.

This order was subject to challenge in Criminal Writ Petition No. 534/2023 which was heard by me on 26/4/2023 and I set aside the impugned order and issued directions to the Special Judge, to issue summons to PW 13 within a period of four weeks and recall him for the purpose of cross-examination at the instance of accused no.9, subject to payment of cost of Rs.10,000/-.

3 The counsel for the petitioner seek to draw parity with the situation resulting into an order dated 26/4/2023.

4 There can be no doubt that the right to cross-examine a witness is the valuable right, but with the pressure of the trial to be concluded within minimal timelines, the Special Judge also cannot be said to be at fault, as when the witness had come from Chennai and the counsel for the accused gave preference to some other trial, he rejected the application. However, this has resulted in denial of an opportunity of cross-examining the complainant, who is the backbone of the entire trial.

I am informed that pursuant to the order passed on 26/4/2023, PW 13 presented himself in the Court and he was cross-examined on behalf of accused no.9.

I see the difficulty in once again recalling the said witness for the purpose of cross-examination, but if a balance has to be struck between the right of the accused and that of the prosecution, who shall prove its case through the witnesses, I deem it appropriate to give more weightage to the right of the accused rather than the slight inconvenience caused to the witness.

4 In these circumstances, since the complainant is coming from Chennai and it is informed that he is working in a Bank, I deem it appropriate that, apart from the cost of Rs.10,000/- to be deposited with Maharashtra Legal Services Authority within a period of four weeks, petitioner shall also bear

the cost of travel of the witness from Chennai to Pune or else if technically feasible, he can be examined through video-conferencing.

The costs of travel shall be deposited in advance with the Special Judge, if he decides to call him physically.

6 The Special Judge shall issue summons to PW 13 once again and recall him as a witness for permitting cross-examination by the counsel for the petitioner, but it is made clear that on the given date, in no case, the proceedings shall be postponed.

7 In the wake of the above direction, the impugned order dated 20/12/2022 is quashed and set aside. The Writ Petition is made absolute in the aforesaid terms.

(SMT. BHARATI DANGRE, J.)