



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 810 of 2023

sh S/o Ramdeo Shahu ..vs.. The State of Maharashtra, thr. PS.O., PS. Gittikhadan, Nagpur
and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. P. N. Lakhani, Advocate for the petitioner
Mr. A. M. Ghogre, APP for respondent no. 1

CORAM : ANIL L. PANSARE J.

DATED : 6-11-2023

The contention is, while testing the judgment and order of acquittal passed by the trial Court, the first appellate Court has set aside the order and remanded the matter back to the trial Court for recording evidence afresh of so called remaining witnesses whose evidence has been not recorded earlier.

Learned Additional Public Prosecutor submits that the order impugned is dated 22-11-2017. He further submits that delay has not been properly explained. The progress in the re-trial is not known.

At this stage, learned counsel for the petitioner submits that despite giving opportunity to the prosecution, it failed to lead evidence and, therefore, the trial Court has closed the evidence and recorded statement of accused/ petitioner under Section 313 of the Code of Criminal Procedure afresh.

Thus it appears that the petitioner has, pursuant to the impugned order, acted upon it. The petitioner shall satisfy as to how the petition is maintainable.

At this stage, learned counsel for the petitioner seeks permission to withdraw the petition with liberty to challenge subsequent order passed by the trial Court permitting prosecution to examine three witnesses which were not even cited as witnesses in the charge-sheet. Permission granted.

The petition is disposed of as withdrawn with liberty as prayed for.

(Anil L. Pansare, J.)