



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

CRIMINAL WRIT PETITION NO. 470 OF 2024

RAOSAHEB WAMAN KOLPE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Adinath Jagtap, Advocate h/f Mr. Vijay B. Jagtap, Advocate for the
Petitioner

Mr. C.V. Bhadane, APP for Respondent No.1/State

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12th MARCH, 2024

PER COURT :

1. This petition filed under Article 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure, challenges order passed by learned Judicial Magistrate First Class, Newasa, below Exhibit-82 in R.C.C. No.251/2015, thereby allowing application filed by informant and directing to issue summons to investigating officer.

2. Heard learned advocate for petitioner and learned APP for State. Perused the documents placed on record.

3. Learned advocate for petitioner submits that charge is framed in the year 2017 and prosecution has led it's evidence. On 08/06/2022 evidence of medical officer is recorded. Thereafter, on 23/09/2022 trial Court has passed order below Exhibit-1 and closed prosecution evidence. Statement of accused under Section 313 of

Cr.P.C. is recorded on 19/10/2022 and the matter is posted for final arguments. Therefore, trial Court has erred in re-opening evidence and permitting examination of investigating officer as a witness at that stage.

4. Learned APP, on the other hand, supports the impugned order.

5. For just decision of the case, examination of investigating officer is necessary and therefore, trial Court has rightly allowed the application. No prejudice is likely to be caused to petitioners as they will have opportunity to cross-examine the investigating officer. There is no jurisdictional error or error of law in the impugned order passed by trial Court. No case is made out by petitioner to exercise extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)