



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

916 CRIMINAL WRIT PETITION NO. 1308 OF 2023

RAJA GAUD VITTHA GAUD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for the Petitioners : Ms. Rani Bharuka – Bora h/f Mr. Bora Satyajit S.

APP for Respondent/State : Mr.Satish A. Gaikwad

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 20th June, 2024.

P.C.:

1. By this writ petition, the petitioners are seeking quashment of no cross order dated 28.07.2023 passed by the Additional Sessions Judge-1, Nanded below Exhibit-223 in Sessions Case No.23 of 2014.
2. It is contentions of learned counsel for the petitioners that as per the order of this Court dated 17th November, 2022, the petitioners have changed the Advocate but their advocate was not available, hence no cross order is passed against them. The learned counsel further submitted that fair opportunity should be given to the petitioners to cross-examine the witnesses. Hence, she requested to allow the writ petition.
3. The learned APP vehemently submitted that sufficient opportunities were given to the petitioners to cross-examine the witnesses. Earlier no cross order was passed against the petitioners and it was set aside by this Court (Coram : S.G. Mehare, J) by order

dated 17th November, 2022. Thereafter, also the petitioners did not cross-examine the witnesses. The trial Court has passed detailed order why no cross order is passed against the petitioners. Hence he requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order passed by the trial Court.

5. It appears that sufficient opportunities were given to the petitioners to cross-examine the witnesses and on one or other pretext the petitioners avoided to cross examine the witnesses. It is settled law that fair opportunity should be given to the accused to prove their innocence, but it does not mean that the petitioners-accused under that garb prolong the matter on one or other pretext. The sessions trial is of the year 2014. It appears that some witnesses have already been examined. Considering these aspects, last chance is given to the petitioners to cross-examine the witnesses. The learned counsel for the petitioners undertakes that henceforth the petitioners would not file any application for adjournment for cross-examination of the witnesses. Considering all these aspects, I pass the following order :-

ORDER

(i) The writ petition is allowed, subject to payment of costs of Rs.10,000/- to the office of the Government Pleader for E-Library, within a week from today.

- (ii) The impugned order dated 28.07.2023 passed by the Additional Sessions Judge-1, Nanded below Exhibit-223 in Sessions Case No.23 of 2014 is quashed and set aside.
- (iii) The petitioners shall cross examine the witnesses on the next date without filing any application for adjournment.

[SHIVKUMAR DIGE, J.]

sga