



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

CRIMINAL APPLICATION (APL) NO. 1431 OF 2024

Veena Sahebrao Lawahale

.vs.

The State of Maharashtra, through PSO PS Rajapeth, Dist. Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr A. S. Mardikar, Senior Advocate assisted by Mr D. P. Singh, Advocate for the applicant
Mr Harshal Futane, APP for respondent/State

CORAM : G.A. SANAP J.

DATE : OCTOBER 03, 2024

Heard.

2. Issue notice to the respondent.
3. Learned APP waives service of notice on behalf of respondent/State.
4. Considering the nature of the orders impugned, this application is taken up for hearing by consent of learned Advocates for the parties. Perused the record and proceedings.
5. It is seen that the learned Judge vide order dated 16.08.2024 was pleased to reject the application for adjournment and treated the cross examination of PW-1, who is the complainant in anti-corruption case, as closed. The accused thereafter made an application Exh. 49 for

recalling PW-1 for cross-examination. This application was rejected vide order dated 03.09.2024. It is to be noted that there was a failure on the part of the advocate to cross-examine the witness. The reasons had been stated in the application for adjournment. Learned Judge did not agree with those reasons and rejected the same and treated the cross of the complainant as closed.

6. In anti-corruption case, the evidence of the complainant is very important. If the matter is proceeded without cross-examination of the complainant then it would left inherent defect in the case. On this ground, the possibility of causing prejudice to the prosecution in future can't be ruled out. It is to be noted that every endeavour is required to be made by the prosecution as well as by the advocate for the accused to extend fullest cooperation to the Court. It appears that there was no corporation, as has been recorded by the learned Judge.

7. In my view, in the facts and circumstances, the learned Judge could have tackled the situation by imposing the costs and also by imposing appropriate conditions to ensure the speedy trial of the case. In my view, this inherent defect, crept in the case of the prosecution, would be harmful to the complainant. In my view, therefore, in order to meet the ends of justice it is

necessary to set aside the orders dated 16.08.2024 and 03.09.2024.

8. Accordingly, the civil application is allowed.

9. The orders dated 16.08.2024 and 03.09.2024 are set aside.

10. The application for recalling the witness (PW-1) is allowed.

11. The advocate is allowed to cross-examine the complainant after recalling of the complainant. In view of the concern expressed by the learned Judge, it is directed that the trial in the case be conducted on day to day basis consistent with the mandate of Section 309 of the Code of Criminal procedure.

12. The parties shall extend fullest cooperation to the Court.

13. The application stands **disposed of**, accordingly.

(G. A. SANAP, J)