



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

**CRIMINAL WRIT PETITION NO.579 OF 2024**

Dinesh Ramkrushna Ingle

(Vs.)

The State of Maharashtra, through its Police Station Officer, PS Shegaon Dist. Buldhana

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

Court's or Judge's orders.

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Ms Pranali R. Wasnik, Advocate h/f Mr. Raju L. Kadu, Advocate for the petitioner.  
Mr. S.B. Bissa, APP for respondent /State.

**CORAM : G.A. SANAP, J.**

**DATE : 22.10.2024**

Heard learned Advocate for the petitioner  
and learned APP for the respondent/State finally at  
the admission state.

2. In this writ petition, challenge is to the  
order dated 18.05.2024 whereby the learned  
Assistant Sessions Judge, Khamgaon rejected the  
application made on behalf of the accused for  
recalling witness No.2 and witness No.5 for further  
cross examination.

3. It is stated that on the given dates the

Advocate for the accused could not attend the Court and therefore, the cross examination of PW-2 and PW-5 was treated as closed by the learned Judge.

4. It is to be noted that the accused is facing the charge under Section 332 of the Indian Penal Code. Witnesses viz. PW-2 and PW-5 are very important witnesses for the prosecution. It is stated that if the accused is not granted an opportunity to cross-examine these witnesses then he would suffer irreparable loss. It may result into miscarriage of justice.

5. I have gone through the record and proceedings.

6. In my view, on technical grounds the accused cannot be denied a fair trial. It is evident from the record that there was a lapse on the part of the accused as well. However, he cannot be penalized in this manner. He can be directed to pay cost/penalty. In my view, therefore, this order which could deny fair trial to the accused deserves to be set aside.

6. Accordingly order dated 18.05.2024 passed by learned Assistant Sessions Judge, Khamgaon in Sessions Case No.181/2019 is quashed and set aside.

i) The application at Exh.43 for recalling these witnesses is allowed subject to cost of Rs.1000/- (Rupees One Thousand Only).

ii) The cost be paid before learned Assistant Sessions Judge, Khamgaon on 11.11.2024.

iii) If the accused fails to pay the cost, then he shall not be entitled to cross-examine these witnesses.

iv) In case he pays the cost then matter shall be listed on 14.11.2024 and the prosecution shall recall these two witnesses for cross-examination.

7. Writ Petition stands disposed of in the above terms.

**JUDGE**