



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 295 OF 2025

ASHTABHUJNATH S/O MRUTUNJAYNATH TRIPATHI AND ANR

VERSUS

THE STATE OF MAHARASHTRA AND ANR

Advocate for the Petitioner : Mr. Shivraj B. Kadu
APP for Respondent No.1-State : Ms. Saie S. Joshi
Advocate for Respondent No. 2 : Mr. Jagdish Deshpande

CORAM : SACHIN S. DESHMUKH, J.

Reserved On : 10th September, 2025
Pronounced On : 17th November, 2025

ORDER :-

1. The petitioners question the order dated 13.11.2024 rendered by the learned Additional Sessions Judge, Aurangabad below Exh. 56 in Regular Criminal Case No. 2202 of 2017.

2. The complainant / respondent No. 2 lodged FIR bearing Crime No. 220 of 2017 with the Cidco Police Station, Aurangabad against the petitioners, in relation to which, the petitioners are facing the prosecution under Section 452, 354(a) (1), 323, 504 and 506 read with 34 of Indian Penal Code.

3. The evidence of respondent No. 2 was recorded on 30.07.2024. During the course of cross-examination of respondent No. 2, the Trial Court refrained from the learned counsel of petitioners to cross-examine respondent No. 2 on the questions relating to the civil dispute. Therefore, the petitioners preferred the application dated 07.08.2024 below Ex. 56 seeking reasons in support of refusal to cross-examine the respondent No. 2.

4. The learned Trial Court rejected the application while recording the reasons that if accused wanted to contradict the witness on the basis of previous statement, the law provides its own procedure to prove the same. The Trial Court further noted that the testimony recorded of witnesses in the civil suit can be placed on record by tendering the certified copies of these proceedings. Therefore, aggrieved by the same, the petitioners have approached this Court by way of present petition.

5. The learned counsel for petitioners submits that it is the right of the petitioners to cross-examine the witnesses. The Trial Court has not taken into consideration the provisions of Section 146 of the Indian Evidence Act. Therefore, prayed to

allow the petition. In order to support submission, the learned counsel for petitioners placed reliance on the verdict of this Court in the case of **Ajit Sukhijia Vs. Edgar Francisco Valles and Ors. [2016(3) Mh. L. J. 243]**.

6. The learned APP and learned counsel for respondent No. 2 supported the order under challenge and prayed for dismissal of the petition.

7. I have heard the learned counsels for litigating sides and perused the entire record.

8. Admittedly, the petitioners are facing the prosecution initiated on the basis of FIR lodged by respondent No. 2 and equally, a civil dispute is also pending between the parties. Pursuant to completion of investigation, the trial has commenced and evidence of respondent No. 2 was recorded. During the course of recording of evidence, the Trial Court restricted the Counsel representing the Petitioners from confronting the witness with the questions relating to the civil dispute.

9. It is well settled law that, as a general rule, the Courts would not justified in imposing restrictions during the

cross-examination of a witness. However, the Court may, in the course of trial come to the conclusion that some of the cross-examination was unnecessary and in such eventuality, the Court has the power to control the cross-examination of the witness by the counsel but such power has to be exercised in a reasonable way.

10. Upon perusal of the documents on record and relevant provisions, the Trial Court has committed an error in ignoring the fact that the cross-examination is the main tool of the accused to test the veracity of the evidence of the witness and discredit trustworthiness. However, this does not imply that the Trial Court is precluded from exercising its discretion to disallow the irrelevant question.

11. As has been held by this Court in the case of **Ajit Sukhtija** (supra), the relevancy and admissibility of a particular question when seriously raised, the endeavour of the Court is to elicit the answer of the witness after noting objections. The final decision of such objection can be decided at the end of the trial. This procedure benefits even the Appellate Court as in a case where the question is disallowed or excluded from evidence and the Appellate Court feels that the same was essential, it is at this

stage not required to remand the matter for re-examination of the witness.

12. Thus, in my considered view, the cross-examination is one of the important mechanism for eliciting the true facts of a case and reasonable latitude should be ordinarily be afforded in its conduct. Such latitude cannot be impaired in the manner as has been done by the Court below.

13. In view of the aforesaid discussion, the Trial Court was not justified in restricting or disallowing the petitioners to cross-examine the witness. Hence, this petition deserves to be allowed.

14. Taking into consideration the fact that the original proceeding is pending since the year 2017, the Trial Court shall make an endeavour to conclude the trial as expeditiously as possible.

15. With the above directions, the writ petition is allowed in terms of prayer clause **(B)**.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi