

Mr. Yash G. Fadtare Advocate for the Petitioners
Mr. Kiran Swami & Sanjay Nagad Advocate for Respondent No. 2.
Dr. A. A. Takalkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.
DATE : 17th NOVEMBER, 2025.

1. The challenge in this Writ Petition is the order dated 5th February 2025 passed by the learned Additional Sessions Judge, Sangli below Exhibit 129 in Sessions Case No. 13 of 2020.

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2. It is the contention of learned counsel for the petitioners that PW 9 is examined by the prosecution to prove the inquest Panchanama. In cross-examination, he had given certain admissions. At the time of cross-examination by the learned counsel for accused nos. 1 and 2, learned APP did not object to the questions asked by the learned counsel for accused nos. 1 and 2 but after examining the witness, the prosecution wants to re-examine PW 9, which is

erroneous. Learned APP should have objected to the questions asked in cross-examination at that time only. To fill up lacuna, they want to re-examine PW 9, which is not permissible in law but this fact is not considered by the learned Trial Court and has allowed the application, which is erroneous and requested to allow the Writ Petition.

3. It is the contention of learned APP that PW 9 is witness on inquest Panchanama and he was examined to prove the inquest Panchanama, but in cross-examination, he has given certain admissions to help the defence side. He has tried to show that he was present as witness while preparing other Panchanama. To clarify it, re-examination is required. The learned Sessions Judge has passed a well reasoned order, no interference is required in it and requested to dismiss the Writ Petition.

4. I have heard both the learned counsel, perused the impugned order passed by the learned Additional Sessions Judge. While passing the order, the learned Sessions Judge has observed that while answering the questions in cross-examination by the learned advocate for accused nos. 1 and 2, other than inquest Panchanama, PW 9 has given some answers for which he needs to be re-examined.

PW 9 has supported the prosecution to some extent but thereafter, he did not support the prosecution. On that ground, the learned Trial Court has permitted to re-examine PW 9 only with respect to the questions which were asked to PW 9 other than inquest Panchanama. The learned Trial Court also clarified that advocate for accused nos. 1 and 2 is having right to conduct cross-examination of PW 9 with respect to the questions to be asked in re-examination. I do not find infirmity in it. It is the apprehension of the learned counsel for the petitioner that re-examining PW 9 would amount to filling up the lacuna. In my view, the learned Trial Court has specifically observed that re-examination is to be done for the answers given by PW 9, other than inquest Panchanama, when he was witness on the inquest Panchanama. The contentions of both parties are kept open.

5. In view of above, I pass following order:

ORDER

- I. The Writ Petition is dismissed.
- II. The contentions of both parties are kept open.

(SHIVKUMAR DIGE, J.)