



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1216 OF 2025

1. SOMNATH DATTUBA WADEKAR
Age : 53 years, Occu. Nil,
R/o Shriram Nagar, Shirdi,
Tq. Rahata, Dist. Ahilyanagar.
2. VISHAL ASHOK KOTE
Age : 35 years, Occu. Nil,
R/o Kote Galli, Shirdi,
Tq. Rahata, Dist. Ahilyanagar.
3. SHOYAB SHABBIR SHAIKH
Age : 33 years, Occu: Nil,
R/o Hasnapur Road, Musale Vasti, Loni,
Tq. Rahata, Dist. Ahilyanagar.
4. DIPAK ASHOK MANJARE
Age : 31 years, Occu: Nil,
R/o. Inamwadi, Shirdi,
Tq. Rahata, Dist. Ahilyanagar.
5. RAMA @ RAMU SHIVAJI JADHAV
Age : 32 years, Occu: Nil,
R/o. Wadarwada, Pimpalwadi,
Tq. Rahata, Dist. Ahilyanagar. **...Petitioners**

VERSUS

1. THE STATE OF MAHARASHTRA
Through its Police Inspector,
Shirdi Police Station,
Tq. Rahata, Dist. Ahilyanagar.

2. SATISH @ BALU VASANT GAIKWAD
Age : 39 years, Occu: Service,
R/o Sai Nagar, Shirdi, Tq. Rahata,
Dist. Ahilyanagar.
3. SUBHASH SAKHARAM SHEJWAL
Age : 39 years, Occu: Service,
R/o Shirdi, Tq. Rahata,
Dist. Ahilyanagar.
4. ANITA SUBHASH SHEJWAL
Age : 33 years, Occu: Household,
R/o Shirdi, Tq. Rahata,
Dist. Ahilyanagar.

...Respondents

Advocate for Petitioners : Mr. S.S. Gangakhedkar h/f
Mr. Avinash Barhate Patil

APP for Respondent/State : Mr. Aftab Ahmed Khan

Advocate for Respondent Nos. 2 to 4 : Mr. A.R. Salve

CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : 12th JANUARY, 2026

PRONOUNCED ON : 20th JANUARY, 2026

O R D E R :

1. The Petitioners have filed the present petition, thereby challenging the order dated 08.08.2025 passed by the learned Additional Sessions Judge, Rahata, Dist. Ahilyanagar and have further prayed for transfer of the Sessions Case No.34/2024 pending before the learned Sessions Judge, Rahata,

Dist. Ahilyanagar to the exclusive learned Special Court of atrocities matter at Shrirampur, or the learned Additional Sessions Judge, Kopargaon, Dist. Ahilyanagar.

2. By the impugned order dated 08.08.2025, the learned Special Court directed the prosecution to provide the accused persons with a copy of the CCTV footage recording, stored in the hard disk, either in pen drive or CD by downloading the same in the pen drive supplied by the defense, in the presence of an expert from the police station staff and the computer section staff of the District Court, Rahata, as well as in the presence of the learned Advocate for the accused and the learned APP.

3. It is pertinent to note that, after the passing of the order dated 08.08.2025, the defense advocate filed an application seeking to keep the said order in abeyance, as the defense intended to challenge it before this Court. The defense also sought a stay of further evidence before the learned trial Court. However, by its order dated 11.08.2025, the learned Additional Sessions Judge, Rahata

observed that the High Court had itself scheduled the programme for completion of the trial, and therefore the trial, which is expedited by the High Court, shall proceed with the evidence of other witnesses.

4. The trial Court passed a further order on 13.08.2025, thereby allowing the issuance of 65 certificates to be submitted by the concerned photographer who had taken the photographs of the deceased on the ground that the said witness, being the author of the photographs and the gadget used for snapping the photographs of the deceased and being the sole author of the said documents, he had an authority to submit the certificate under Section 65.

5. The learned Counsel for the Petitioners submits that in view of the earlier order of the same Court rejecting the application insofar as witness Satish is concerned, the application filed by the prosecution, being Exhibit-196 in Sessions Case No.62/2015, came to be rejected by the learned Sessions Judge by order dated 29.04.2023, observing

that such recall would amount to wiping out the crucial admissions made by the witness in his testimony. The purpose of recalling the witness and seeking further examination in exercise of powers under Section 311 of the Code of Criminal Procedure is not warranted, as it would amount to throwing away the admissions and filling the loopholes in the testimony of the said witness. Thus, the impugned order dated 08.08.2025 needs to be set aside.

6. The learned Counsel for the Petitioners further submits that the further application moved by the prosecution, seeking permission to refer the CCTV footage to witness Satish Gaikwad for identification of the accused persons also, came to be rejected by order below Exhibit-402 dated 14.02.2024 passed by the learned Additional Sessions Judge, Kopergaon. Thus, despite two such orders rejecting the application for further examination of witness Satish and the application for permission to refer the CCTV footage to him for identification of the accused persons, there was no reason for permitting the prosecution to refer the said CCTV footage to witness Akash and to allow the footage to

be played in Court.

7. The learned Counsel for the Petitioners Mr. Gangakhedkar vehemently submits that allowing the witness to confront with the CCTV footage would amount to res judicata as very same the trial Court has passed order below Exhibit-196 dated 29.04.2023 and order below Exhibit-402 dated 14.02.2024, refusing the permission to the prosecution to refer the CCTV footage to the witnesses. The impugned order dated 08.08.2025 therefore needs to be quashed and set aside as the same would amount to reopening the same issue which is already decided by the trial Court earlier in the aforesaid two orders. Learned counsel further relies upon the judgment of the Hon'ble Supreme Court in the case of ***S. G. Garg Vs. State of Uttar Pradesh and Another; 2025 SCC OnLine SC 791*** to submit that the principles of res judicata would apply even in the case of criminal proceedings.

8. It is further submitted by the learned Counsel Mr. Gangakhedkar that the petition filed by the State, being Writ Petition No.1920/2023

challenging the order rejecting permission to confront the witness with the CCTV footage, is still pending. The order passed below Exhibit-196 dated 29.04.2023 continues to operate and therefore the impugned order dated 08.08.2025, again permitting the prosecution to confront the witness Aakash with the CCTV footage, is illegal and would cause prejudice to the defense and therefore needs to be set aside. It is further submitted that witness Aakash stands on the same footing as witness Satish, who was also sought to be confronted with the CCTV footage by the prosecution through an application. The said application was rejected by the learned trial Court by order dated 14.02.2024. The impugned order thereafter allowing the CCTV footage to be used to confront witness Aakash is therefore illegal and liable to be set aside.

9. As against this, the learned Counsel for the complainant and the learned APP vehemently oppose the present Writ Petition on the ground that the impugned order dated 08.08.2025 has duly considered in detail the earlier orders passed by the trial Court, namely the order dated 29.04.2023 below

Exhibit-196 and the order dated 14.02.2024 below Exhibit-402. The learned trial Court has observed that witness Ratan had not even seen the contents of the CCTV footage, yet an attempt was made by the prosecution to confront him with the footage as if he had actually seen it. Therefore, the permission to play the CCTV footage in Court was rightly rejected.

. The learned trial Court has further observed that the order dated 14.02.2024 passed below Exhibit-402 was also considered in the impugned order dated 08.08.2025. It was noted by the learned trial Court that the said permission had been rejected by the trial Court on the ground that witness Satish had already identified the accused persons, and therefore a subsequent round of identification by confronting the witness with the CCTV footage could not be permitted.

10. Thus, it is vehemently submitted by the learned Counsel assisting the prosecution as well as the learned APP that the principles of res judicata would not apply to the present case, as the impugned

order dated 08.08.2025 has been passed on an entirely different footing by considering and distinguishing earlier orders. It is further submitted that this Court has already directed that the trial be expedited and completed within four months. However, time and again, the Petitioners have devised one or the other method to delay the proceedings before the Trial Court, thereby violating the stipulated timeline issued by this Court. Even though the time was extended by this Court, the trial could not be concluded, as the Petitioners once again filed another application after the impugned order dated 08.08.2025 was passed by the learned Trial Court, seeking a stay of the said order. The learned trial Court vide order dated 11.08.2025 has therefore adjourned the trial with a direction to keep pending the partial evidence of PW-37 until order dated 08.08.2025 is challenged and disposed of by the High Court regarding CCTV footage. It is therefore submitted that the petition is devoid of substance and has been filed only with the intention of protracting the trial, and hence deserves to be dismissed.

11. I have gone through the orders passed by the learned trial Court from time to time. The order copies show that the trial Court had earlier rejected the application filed by the prosecution below Exhibit-196, vide order dated 29.04.2023, on the ground that witness Ratan had not even seen the contents of the CCTV footage, and yet an attempt was made by the prosecution to project as if the witness had actually seen it. Accordingly, permission to play the CCTV footage in Court was refused. The order dated 29.04.2023 further records that the learned Sessions Court observed that the CCTV footage could be displayed only in accordance with law.

. The further observation of the learned trial Court does not preclude the playing of the CCTV footage in Court. On the contrary, the trial Court observed that **"the best evidence in the premises would be the CCTV footage itself."** Moreover, in its further order dated 14.02.2024 passed below Exhibit-402, the trial Court further noted that witness Satish had already identified the accused persons,

and therefore a subsequent round of identification could not be undertaken. It was further observed by the trial Court in its order dated 14.02.2024 **"that the trial Court is going to watch the CCTV footage at an appropriate stage"**.

12. A minute perusal of the impugned order dated 08.08.2025 shows that the learned trial Court has not only permitted the CCTV footage to be played in Court and confronted to witness Akash, but has also considered the supplementary statement of witness Akash dated 04.08.2015 wherein Akash claimed to have seen the CCTV footage of the alleged date of incident and identified the accused persons. Witness Akash, therefore, stands on a different footing than witness Ratan and witness Satish. Insofar as the judgment relied upon by the learned counsel for the petitioner, it would be pertinent to note that the impugned order dated 08.08.2025, distinguishes the earlier orders passed by the trial court on the ground mentions hereinbefore. The impugned order further directs the prosecution to supply a copy of the CCTV footage to all counsels appearing for the various accused persons before the Trial Court. In

my view, therefore, no prejudice would be caused to the defence. Thus, there is no error in the impugned order dated 08.08.2025. No submissions are advanced by the petitioner as far as remaining prayers for transfer of trial are concerned. The Petitioners have failed to make out any case for interference by this Court in exercise of its jurisdiction under Article 226 and 227 of the Constitution of India. The petition is accordingly dismissed.

MEHROZ K. PATHAN
JUDGE

NAJEEB..