

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**Interim Application No. 3899 of 2025
In
Criminal Writ Petition No. 2802 of 2023**

Haresh Dharmani ... Petitioner
V/s.
Jugal Kishor Bhajanlal Didwania & anr. ... Respondents.

Mr. Anand Pai a/w. Sahil Sayyed, a/w. Lavanya Panickar, and Mr. Vinay nair	Advocates for the Petitioner.
Mr. B.V. Holambe Patil	APP for the State.
Mr. Harshad Bhadbhade a/w. Vidhya Mangavde a/w. Nikita Mandaniyan a/w. Swati Panjwani and Atharv Gidaye	Advocate for Respondent No.1.

**CORAM : S.M. MODAK, J
(IN CHAMBER)**

DATE : 9th January 2025.

P.C. :

Heard Mr. Pai, the learned Advocate appearing for the Petitioner-accused. Also heard Mr. Bhadbhade, the learned Advocate for the Respondent-Complainant and Mr. Holambe Patil, the learned APP appearing for the State.

2. It is true this Court as per the order dated 4th July 2025 has

dismissed the Criminal Writ Petition No.2802/2023. The learned trial Court Judge has permitted recalling the Complainant for further evidence. This was passed at the stage when the final arguments have proceeded. Learned Advocate Pai has invited my attention to the observations in Para Nos. 9 and 10 of the said order. He has invited my attention to the certain Roznamas showing stage of the case.

3. According to him recalling is permissible as held in case of *Ratanlal v.s. Prahlad Jat and others*¹. More specifically he invited my attention to the observations in Para No.21.

4. Whereas according to Mr. Bhadbhade there is no provision for recalling in the Code of Criminal Procedure and to buttress his submissions he relied upon the observations in case of order in *Gurram Narasimhaswami Siddidram v/s. Dr. G. Harikishan, Mumbai and others*² dated 6th July 2020 and more specifically Para No.24 wherein the provisions of Section 362 of Code of Criminal Procedure were reproduced.

5. To repel this contention, Mr. Pai relied upon the observations in the case of *Radha Bhattad v/s. Rashmi Cement Limited*³ and more

1 (2017) 9 Supreme Court Cases 340

2 Criminal Application No. 421/2019 dated 6th July 2020

3 2023 SCC OnLine Cal 2570

specifically Para No.13. There is reference of Article 215 of the Constitution. It is true this Court is a Court of record and it is interpreted Court of record does not mean only for maintaining the record but to maintain a correct record and according to Mr. Pai considering the stage of the case and considering the admission during cross-examination, this Court ought to have allowed the writ petition.

6. When I have gone through the reasoning in the order which is sought to be reviewed, I do not think that a case of review or recall is made out. The Petition was dismissed by giving detail reasoning. After hearing both the sides and after considering the fact that trial Court is the only Court wherein the evidence is adduced, this Court has dismissed the Writ Petition. It is also observed that even if the Complainant is permitted to be recalled, there is a right of cross-examination to the accused. Till today, there is no further progress before the trial Court and yet the Complainant has not given the evidence. I do not find merit in the interim application. Hence, it is dismissed.

(S.M. MODAK, J.)