



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

CRIMINAL WRIT PETITION NO. 56 OF 2026

1. Amol s/o Jeevan Hiware, age 32 years, Occ.
Labour.
2. Lakhan s/o Jeevan Hiware, aged 34 years,
Occ. Labour
3. Jeevan Wasudeo Hiware, age : 58 years, Occ.
Labour.

All R/o Dal File, Khamgaon Tq. Khamgaon,
Dist. Buldana.

... PETITIONERS

VERSUS

State of Maharashtra, through Police Station
Officer, P.S. Shivaji Nagar, Khamgaon, Tq.
Khamgaon, Dist. Buldana.

... RESPONDENT

Shri A.J. Thakkar, Advocate for the petitioners.
Shri A.A. Madiwale, APP for the State.

CORAM: M.M. NERLIKAR, J.

DATE : 07.03.2026.

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith.

2. Heard the learned Counsel for petitioners and learned APP appearing for the State.

3. By way of the present petition, the petitioner has impugned herein the order dated 03.12.2025 passed by the Additional Sessions Judge rejecting the application of the petitioner for setting aside the no-cross order dated 04.11.2025.

4. It is submitted that the petitioner has filed an application on 03.12.2025, for setting aside the no-cross order dated 04.11.2025 passed by the Sessions Court, Khamgaon. No cross order was passed on 04.11.2025, however on that day, the Advocate of the accused had gone to the funeral of his close friend. The Additional Sessions Judge Khamgaon has rejected the application on the ground that even at an earlier occasion no-cross order was passed and same was set aside subject to costs of Rs.3,000/-, therefore, declined to interfere with the no cross order passed on 04.11.2025.

5. On the other hand, learned APP vehemently opposes the application by submitting that the charges were framed in the year 2016 and the accused has engaged six advocates till date thereby delaying the trial. The defence side is not cooperating for concluding the trial and even before this impugned order, no-cross order was

passed. However, that was set aside subject to costs of Rs.3,000/-, still the defence is protracting the trial and therefore, this Court may not be interfered in the impugned order.

6. I have considered the rival submissions and perused the record. Cross-examination is an important stage for the accused as an opportunity is provided to set up his defence. If the order is not set aside the very purpose of the cross-examination would be frustrated. The recording of evidence is still in progress. Therefore no prejudice would be caused to the State, if the order is set aside.

7. Learned Counsel for the petitioner made a statement that the concerned Advocate would voluntarily pay costs of Rs.25,000/- if the impugned order is set aside. The statement is accepted. In this view of the matter, I am inclined to allow the petition. Hence the following order :

- (a) The Criminal Writ Petition is allowed.
- (b) Order dated 03.12.2025 passed below Exhibit 121 in Sessions Trial No.58/2012 passed by the learned Additional Sessions Judge, Khamgaon is hereby quashed and set aside.
- (c) The costs to be deposited in the account of Public Welfare

bearing Account No.129712010001014 at Union Bank of India within two weeks from today.

8. The Petition stands disposed of accordingly. Rule is made absolute in above terms.

(M.M. NERLIKAR, J.)

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