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Sessions Case No.205/2025  
(Order below Exh.630)

MHAU160012872025



**Sessions Case No.205/2025**

**State of Maharashtra**

**Vs.**

**Santosh Mahadeo More and others**

**ORDER BELOW EXH.630**

I have perused the application and say filed by the Learned APP.

[2] Accused No.(2) has filed this application for recalling witnesses i.e. PW3- Dr. Kilas Zine, PW9- Sunil Sharma, PW10- Govind Nadurkar and PW11- Mukeshkumar Chohel, for their further cross-examination.

[3] Ld. Advocate for accused No.(2) has submitted that when evidence of above four prosecution witnesses was recorded in the Court, Ld. Advocate was representing accused No.2 did not lead specific defence to prove innocence of this accused. Therefore, further cross-examination of these four prosecution witnesses is necessary, otherwise it would cause prejudice to accused No.(2). However, on the other hand, even if, further opportunity for cross-examination of these four prosecution witnesses is granted, no prejudice or harm would be caused to the

prosecution. Hence, Ld. Advocate for accused No.(2) prayed that application (Exh.630) may be allowed.

[4] On other hand, Ld. APP submitted that Ld. Advocate appearing for accused No.(2) conducted cross-examination of these four witnesses at length. Sufficient opportunity was given to him for cross-examination. In the circumstances, only to fill up the lacuna of the defence, such opportunity cannot be granted. He prayed for rejection of the application.

[5] It appears that Ld. Advocate APP on 24.12.2025 filed pursis (Exh.957) and thereby closed recording of prosecution evidence. Since then the matter was adjourned for recording statements of the accused persons under Sec.313 of the Cr.P.C. However, it appears that for one or the other reason, the accused persons got adjourned recording of statement Under Sec.313 of the Cr.P.C.

[6] The present application (Exh.630) was filed by accused No.(2) on 15.06.2024. Thereafter, Ld. APP filed his reply on 22.07.2024. However, for the reasons best known to accused No. (2) or his advocate, since then Ld. Advocate for accused No.(2) did not press for hearing of this application (Exh.630), till this date and now when the matter is taken up for recording statement under Sec.313 of the Cr. P.C, such applications are taken up and pressed for hearing.

[7] There is no confusion in my mind that the Court can recall any witness, examined or not-examined, if its evidence is essential for the just decision of this case, however, before recalling such witness there must be some reasonable grounds for recalling. On going through the present application it appears that only one line reason is mentioned that to prove innocence of the accused it is essential that the specific defence is led. However, earlier Advocate of the accused has not put-forth the same.

[8] The above reasons mentioned in the application appears to be vague and incomplete. It is not mentioned in the application that what was the defence which remained to be put-forth before those four prosecution witnesses. So also, the the Ld. Advocate for the accused has not pointed out any ambiguity in recording of earlier evidence or earlier cross-examination of the prosecution witnesses, which requires recalling of the said four prosecution witnesses. On the contrary, it appears that, Ld. Adv. Shri. Katare conducted cross-examination of the said four prosecution witnesses and he was given full opportunity to cross-examine them. Therefore, it cannot be said that, if opportunity for further cross-examination of the said four witnesses is not given to the accused, it would cause him prejudice. In the circumstances, to fill up lacuna of the defence or to prolong hearing of the case, the accused cannot be permitted to recall those four prosecution witnesses.

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[9] For the reasons stated above, I am of the opinion that, it would not be just and proper to recall the said four prosecution witnesses. I, therefore, pass the following order:-

**ORDER**

Application (Exh.630) is rejected.

**(S.B. Bahalkar)**

Additional Sessions Judge,  
Gangapur, Dist. Chh. Sambhajinagar.

Date:- 13.01.2026