

**Order below Exh.316 in RCC 166-2007**

( State Vs. Babasaheb )

Read the application and say filed. Perused the records of the case. This application is filed by the complainant through his private advocate for setting aside the evidence close order passed against the prosecution. This is second application filed on behalf of complainant. The prosecution has examined six witnesses. The last witness was examined by prosecution on 23-5-2016 and prosecution failed to examine the remaining witnesses in spite of sufficient opportunities and directions given by the Court. Therefore, the evidence of prosecution was closed by order below Exh.1 on 5-10-2017. It is pertinent to note that, complainant has examined all the witnesses except himself in spite of being remaining present in the Court on each and every date. The first evidence close order was set aside by the complainant by depositing Rs.1000/- in the Court. But even after setting aside the said order the complainant failed to examine himself and delayed the matter by filing adjournment application for one and other reason. Complainant is in a habit of challenging all the orders in the Appellate Court only with intention to delay the case. All the witnesses examined by the complainant have not supported the prosecution case. It is important to note that, some adjournments sought by the complainant on the ground of filing writ application before Hon'ble High Court. The first evidence close order was passed on 5-10-2017 which was set aside on 12-10-2017 by allowing the adjournment application of complainant. Thereafter, on next date i.e. On 30-10-2017 complainant deposited the cost of Rs.1000/- but had not examined himself. Thereafter, complainant filed application for arraying Shashikant Doke (investigating

officer) and Vishnu Gite (constable) as accused in this case on the ground that they have released the seized vehicle without following the due procedure of law. It is important to note here that, complainant had also filed many writ application before the Hon'ble High Court and accordingly, inquiry against the I.O. is pending. Further, there is no role of the proposed accused in the alleged incident. Therefore, the said application for arraying the I.O. and Constable as accused was rejected on 23-11-2017. Thereafter prosecution failed to examine the complainant on 30-11-2017. On 6-12-2017 & 27-12-2017 complainant sought adjournment on the ground that, writ petition No.1645/2017 is pending before the Hon'ble High Court. Thereafter, prosecution failed to examine the complainant on 6-01-2018, 22-01-2018, 12-02-2018. Thereafter, on 7-3-2018, evidence of prosecution was closed again by order below Exh.1. More than sufficient opportunities have already been granted to the prosecution for adducing evidence. The complainant is in habit of filing writ applications before the Hon'ble High Court and delaying the matter. It is only grievance of the complainant that the seized property is not produced before the Court. But it is pertinent to note that, accused has given undertaking that he will produce the seized vehicle as and when required by the Court. Even though, prosecution failed to examine complainant or adduce further evidence. The matter is pertaining to the year 2007. Complainant sought adjournments for one and another reasons since 23-5-2016. It appears that, it is the only intention of the complainant to delay the decision of the case. Considering the right of accused for speedy trial, I do not find it proper to give one more opportunity to complainant for adducing evidence. Hence, the following order.

**ORDER**

The application stands rejected.

Date : 21/04/2018

( V. D. Bhosale )  
Judicial Magistrate F.C. AUSA.