

Order below Exh.1
(State Vs. Babasaheb & oths.)

This is the old case pertaining to the year 2007. The charge was framed against the accused on 12-02-2008. The case has been prosecuted by Advocate of complainant by order of Hon'ble High Court and not by Learned Assistant Public Prosecutor. After framing of charge in the year 2008, complainant examined witness No.1 to 4 in the year 2012. The 5th witness was examined in the year 2013. The 6th witness was examined in the year 2016. It is pertinent to note that, complainant without examining himself, examined 1 to 6 witnesses from 2008 to 2016. Even after number opportunities granted to the complainant for completing his evidence or for examining himself, complainant failed to availed them. Therefore, the evidence of complainant was closed on 5-10-2017 by order below Exh.1, which was set aside on 12-10-2017 on costs of Rs.1000/-. Even thereafter, complainant failed to examine himself or any other witness. Therefore, again the evidence of complainant was closed on 7-3-2018 by order below Exh.1 and statement of the accused were recorded on 11-5-2018. Thereafter, again complainant challenged the said order, which was decided on 16-11-2018 by Hon'ble sessions court directing the complainant to lead evidence positively on the ensuing date. However, on the said date i.e. on 30-11-2018 complainant taken adjournment by filing the order of Hon'ble Sessions Court. Again on 07-12-2018 and 18-12-2018 he filed some documents and sought adjournments. Thereafter, on 29-12-2018 complainant examined himself. It is necessary to mention that, complainant has examined in all 07 witnesses however nobody supported the case except

complainant. Thereafter, on 31-12-2018 against he filing an application for issuing summons to one Ankush Gore, to whom summons was already served in September, 2015 and complainant failed to take the necessary steps against him. Therefore, the said application was rejected. Again, complainant today sought to issue summons to the panch witnesses who have already been examined and who have not deposed in favour of complainant. Therefore, the application is also rejected. Sufficient opportunities have already been granted to the complainant for examining the witnesses. Complainant has already examined 07 witnesses. Complainant was interested to array the investigating officer as accused in this case by filing many application. Therefore, Investigating officer is not important witness for the complainant. From the conduct of complainant it appears that he is in habit of prolonging the case by filing number of applications of adjournments on each and every date and by challenging the orders of the Court. It is seen that, prosecution is just lingering the matter instead of closing his evidence. The matter is old pertaining the year 2007. Therefore, in view of the directions given by the Hon'ble High Court and District Court, I am left with no alternative but to close the evidence of prosecution. Hence, the following order.

ORDER

1. Evidence of prosecution is hereby closed.
2. Matter be kept for recording the statement of accused under section 313 of Cr.P.C. only to the extent of the evidence adduced by the complainant.

Date : 09/01/2019

(V. D. Bhosale)
Judicial Magistrate F.C., Ausa.