

REGULAR CRIMINAL CASE NO. 28/2014.
(Order below application vide Exh. 243)

1. Read application and say of learned A.P.P. Heard advocate for accused no. 2 and learned A.P.P. at length. Perused record and proceeding.
2. This application is filed by accused no. 2 Ashok Subrao Matkari for setting aside an orders of no cross-examination passed against him in respect of prosecution witness nos. 6 to 17 and to recall them for cross-examination. According to advocate for accused no. 2, due to already fixed Court matters and operation of her eye, she could not attend on scheduled dates of this case and cross-examine the P.W. nos. 6 to 17. There are serious allegations against the accused no. 2, therefore, it is necessary to cross examine the prosecution witnesses, otherwise injustice will cause to accused no. 2. Hence the application.
3. This application is resisted by the learned A.P.P. contending that the reasons are not proper. No reasons given by the accused for not taking steps at appropriate stage. Hearing of the case is expedited by the Hon'ble High Court. Hence, prosecution requested to reject the application.
4. It is true that accused has right to fair trial. However, at the same time it has to bear in mind that trial should not be protracted. In this matter, in view of order passed in Criminal Application No.568 of 2014 in Bail Application No.1234 of 2014 the Hon'ble Bombay High Court directed this Court to proceed with

the trial expeditiously and shall keep hearing of this case atleast once in a week. Further the Hon'ble Additional Sessions Court, Sangli is directed to decide the case on or before 31-12-2015. Accordingly hearing of this case is being conducted once in a week. The P.W. nos. 6 to 17 are examined time to time during the period of 20-02-2015 to 28-05-2015. Thereafter on 04-06-2015 this application is filed to recall them for cross-examination. The reason that due to already fixed Court matters, advocate for accused no. 2 could not attend on scheduled dates of case is not satisfactory reason. The accused had not filed adjournment application at any time contending that his advocate unable to attend as she undergone operation of her eye. It is pertinent to note that this application is filed after completion of evidence of 12 witnesses. There are no sound reasons to allow this application. If accused knows charges levelled against him are serious and when hearing of the case is expedited by Hon'ble High Court, he should be punctual to conduct the matter. There is inordinate delay to file this application. No sound reasons to set aside an order of no cross-examination. If application is allowed and 12 witnesses are recalled for cross-examination then trial will protract and it could not concluded within the stipulated time. Hence, this application is liable to be rejected. Hence, the order. :

ORDER

The application is rejected.

TASGAON.

Date: 20th August, 2015.

Sd/-xxx
(A.A. Chendke)

JUDICIAL MAGISTRATE, FIRST CLASS,

TASGAON.