

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.486 OF 2015

Nilesh Bhagwan Mahajan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr.S.P.Brahme, Advocate for the petitioner.

Mr.S.G.Nandedkar, APP for respondent/State.

Mr.G.R.Sayed, Advocate for respondent No.2

CORAM : SMT.SADHANA S. JADHAV,J.

DATED : 13.04.2015

P.C. :-

1. Heard. Rule. Rule made returnable forthwith with the consent of the parties.

2. The petitioner herein happens to be original complainant in S.C.C. No.715 of 2010, pending before the Judicial Magistrate, First Class, Chalisgaon,. The present petitioner had filed Criminal Writ Petition No. 1561 of 2014, before this Court, thereby challenging the order rejecting the application below Exh.47. This Court (Coram:-V.M.Deshpande, J.) by order dated 18th February, 2015, was pleased to allow the writ petition and had directed the learned Magistrate to decide the complaint

within a period of three months from the date of receipt of the order.

2. The petitioner herein had filed an application below Exh.62, dated 30.03.2015, seeking relief of permitting him to examine two witnesses, who according to the petitioner, happen to be the eye witnesses. The learned Judicial Magistrate, First Class, vide order dated 26th March, 2015, has been pleased to reject the application mainly on the ground that the Honourable High Court had expedited the matter and that in the facts and circumstances it would not be appropriate to grant the said relief as it would protract the said proceedings. The learned counsel for the petitioner vehemently submits that this would cause prejudice to the petitioner as his case would be foreclosed. In the interest of justice, the complainant deserves an opportunity to substantiate his allegations.

3. The learned counsel for the respondent vehemently submits that the proceedings are being protracted for no good valid reason, and therefore, the petition deserves to be dismissed. It is further submitted that on the last occasion the petitioner had approached the High Court challenging the order below Exh.47 and same exercise has been repeated.

4. However, taking into consideration the submissions advanced by the respective counsel and taking into consideration the fact that the learned Magistrate has rejected the said application only on the ground that the Hon'ble High Court has expedited the matter, this Court is of the view that the petitioner deserves fair chance to substantiate his contention. The learned counsel for the petitioner fairly submits that outer limit of the disposal of the matter is 10th June, 2015. The petitioner approached this Court well within time. It is made clear that the date of disposal of the matter is not being extended. The petitioner shall make best efforts to examine the said witnesses preferably within four weeks from today and shall not seek any further adjournment.

5. In view of the direction given above, the writ petition stands allowed in above terms. Rule is made absolute accordingly. The criminal writ petition stands disposed of accordingly.

6. Learned counsel for the respondent submits that in the facts of the present case it would be expedient in the interest of justice to saddle the petitioner with cost as this happens to be the fourth occasion to

approach the High Court. The learned counsel for the petitioner fairly submits on behalf of the petitioner that the petitioner would deposit cost of Rs.3,000/- (Rupees Three Thousand) before next date in the Trial Court.

[SMT. SADHANA S. JADHAV,J.]