

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL WRIT PETITION NO.550 OF 2015

DATTATRAY S/O NAMDEV KALKOTE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioner : Smt.Surekha P. Mahajan
APP for Respondents/State: Mr.S.D. Kaldate.

...
CORAM : S.S. SHINDE & A.I.S. CHEEMA, JJ.
Dated: JUNE 30, 2015

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Heard learned Counsel for the petitioner. She submits that the petitioner stood retired in the year, 2010 and in case of other accused, sanction to prosecute them has been granted by the Government; however, in case of petitioner, no sanction has been taken from the Government. Therefore, she submits that, the petitioner cannot be prosecuted. It is submitted that if allegations in the FIR are taken at its face value and considered in its entirety, no offence is disclosed against petitioner. It is further submitted that, the material collected by the prosecution agency is not sufficient to proceed against the petitioner.

2 Therefore, relying on the pleadings in the petition, grounds taken therein and the annexures thereto, the learned Counsel for the petitioner submits that the petition deserves to be allowed.

3 On the other hand, learned APP, relying upon the material collected by the prosecution agency, submits that the prosecution agency has collected sufficient material against the petitioner and, therefore, the petition may be rejected.

4 We have given our anxious consideration to the submissions of the learned Counsel for the parties. With their able assistance, perused the documents placed on record. Though charge-sheet has been filed way back in the year 2004, from the material placed on record, it appears that the accused are not causing their appearance and assisting the trial Court for early disposal of the trial and it is apparent from the application filed by the applicant at Exh.C (page 94) of the compilation of the writ petition that the petitioner prayed for cancellation of the warrant issued. It is not necessary for us to go into greater details on merits of the matter. Suffice it to say that perusal of the documents placed on record shows that prosecution agency has collected sufficient material so as to conduct trial against the petitioner. It is not possible for this Court while exercising writ

jurisdiction to enter into appreciation or re-appreciation of the evidence and reach a particular conclusion. This petition has been filed belatedly in the year, 2015 though charge-sheet came to be filed in the year, 2004.

So far as point raised by the learned Counsel for the petitioner about not obtaining sanction from the State Government is concerned, the same will be looked into by the trial Court during trial.

5 For the reasons aforesaid, we are not inclined to entertain the petition. Petition stands rejected.

We hope and expect that the trial Court will expedite the trial.

(A.I.S. CHEEMA, J)

(S.S. SHINDE, J)

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