

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 06 OF 2015

Ramesh Samarthmal Seth ... Petitioner.

V/s.

State of Maharashtra & Anr. ... Respondents.

Mrs. Pravina J. Kanani, Advocate for the Petitioner.

Mr. Ajay Patel, APP for the State.

CORAM : M.L.TAHALIYANI, J.

DATE : 05 JANUARY, 2015

P.C. :

1 Not on Board. Mentioned. Taken on production board in view of the urgency.

2 Heard learned counsel Mrs. Kanani appearing for the Petitioner and the learned additional public prosecutor Mr. Patil for the State.

3 The Petitioner is aggrieved by the order of the learned Additional Sessions Judge before whom a revision application filed by the Petitioner is pending.

4 The Petitioner is accused in criminal case no. 390/SS/2012 and is facing trial for the offence punishable under section 138 of the Negotiable Instruments Act. The

Petitioner had applied for issuance of summons to a defence witness. The same could not be served by the Petitioner and, therefore, he applied for a fresh summons. The learned Magistrate refused to issue a fresh summons and observed that the Petitioner is delaying the trial intentionally. The order of the learned Magistrate has been challenged before the Sessions Court by way of filing a revision application. The learned Sessions Court has refused to grant stay on the proceedings before the trial court. The learned counsel submitted that the proceedings pending before the learned Magistrate are scheduled for final hearing on 6th January, 2015. The learned Sessions Judge had adjourned the revision application till 20th January, 2015 without granting any stay. As such if the trial is over before the revision application is decided, the very purpose of filing the revision application will be frustrated.

5 In the circumstances, to my mind, the learned additional sessions Judge should have stayed the proceedings pending before the trial Magistrate. Hence, I pass following order.

6 The order of the additional Sessions Judge, refusing to stay the proceedings pending before the trial court being criminal case no. 390/SS/2012, is set aside. The proceedings before the trial court shall remain stayed till the

revision application is decided by the Sessions Court. The Sessions Court shall decide the revision application as expeditiously as possible and preferably within a period of 30 days from the date of the receipt of this order.

7 Writ Petition is allowed in the aforesaid terms and stands disposed of accordingly.

Registry to issue authenticated copy of this order.
The Court below shall act on an authenticated copy of this order

(JUDGE)

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