

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.705 OF 2015

Nivruti Piraji Thite

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

.....

Smt. S.S. Wadekar for the Petitioner.

Smt. A.A. Mane, APP, for the Respondent No.1-State.

CORAM:-M.L. TAHALIYANI, J.

DATED : -9/3/2015

P.C.

Heard learned Advocate for the Petitioner and the learned
APP for the Respondent No.1-State.

2. Perused the impugned order. The impugned order runs as
under :

The case is pending since long for the appearance of the accused persons. The complainant is absent. Since long, no steps have been taken by the complainant to secure the presence of the accused persons. As such, the matter has remained idle on the same stage. As such, I do not find any propriety in keeping the matter pending. Hence, I pass the following order.

Order

The complaint is hereby dismissed.

3. It appears that in the Criminal Case No.73 of 2005 evidence before charge of the Petitioner / complainant was recorded and charge was framed. After framing of charge, PW1 was under cross examination. It further appears to me that on the date of hearing complainant and accused both were absent and therefore, complaint was dismissed.

4. In my view order is absolutely without authority of law. Learned Magistrate could not have dismissed the complaint as it was duty of the learned Magistrate to secure attendance of the accused as well as the complainant and bring the case to a logical end. Nothing more is required to be written in the present order. Suffice it to say that order is required to be set aside.

5. The impugned order dated 12-12-2014 is set aside. The R.C.C. No.73 of 2005 to be restored to file. Learned J.M.F.C., Ghodnadi (Shirur) shall take all necessary steps to secure attendance of PW1 and accused and proceed further in accordance with law.

6. The writ petition stands disposed of accordingly.

(JUDGE)