

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 505 OF 2015

Bharat N. Vaishnawa .. Applicant

Versus

State of Maharashtra .. Respondent

Mr. Bharat N. Vaishnawa - applicant -in-person present.

Mrs. A. A. Mane, APP for the State

PSI Mr. R.A. Parab – Azad Maidan Police Station, Mumbai, present in Court.

CORAM:-V. L. ACHLIYA, J.

DATED : -04/06/2015

VACATION COURT

P.C.

The applicant has moved this Court with a request to invoke its extraordinary jurisdiction us/ 482 of Cr. P.C., to prevent the gross abuse of process of law as well as to secure ends of justice for the reason set out in detail in application.

2 In nutshell, it is the say of the applicant that he is a practicing advocate at Mumbai. He is suffering from Cancer since May, 2014. Initially he was admitted in Bombay Hospital in the

month of May, 2014 and later on shifted to Bridge Candy Hospital, Mumbai, where he was undergone major surgery. His one kidney, half of the pancreas and portion of dome of Diaphragm has been removed. Now he is living on one kidney and suffering from serious health issues. During August, 2014 to 31st December, 2014, he has undergone eight Chemotherapy. He has undergone two pet scan. He has lost about 20 kg of the weight. Due to this ailment he is unable to carry out his professional work since May, 2014. He has numbs in his feet and has to walk with the support of the peon. He has been advised not to travel outside Mumbai, as he may catch infection. It is further say of the applicant that he has to take about 13 tablets every day and injection twice a week and also to undergo weekly check-up. Because of the ailment of Cancer, now he has also developed blood pressure, diabetes and asthma.

3 It is the say of the applicant that more than twenty private complaint cases have been filed by same person against him in the Court of Magistrate at Indore alleging therein commission of offence u/s 500 of IPC. In those cases non bailable warrants have been issued by the Court at the instance of complainant as the

applicant could not attend the Court due to the reasons mentioned herein above.

4 It is the say of the applicant that filing of such private complaint cases is nothing but an act of gross abuse of process of law on the part of complainant to harass the applicant. Earlier this Court has passed an order to extend the protection from arrest pursuant to the warrants allegedly issued against him. He could not visit Indore to file appropriate proceeding before the High Court of Madhya Pradesh, Bench at Indore as well as to make a proper application before the Court of Magistrate at Indore, due to his ill-health and circumstances beyond control, which has been set out in detail in the application.

5 It is the say of the applicant that now the fresh warrants are ordered to be issued by order dated 1st of May, 2015 passed in the matter by learned Magistrate's Court at Indore. The applicant intends to approach the High Court of Madhya Pradesh, Bench at Indore but due to court vacation he may not be able to file appropriate proceeding as the court will remain closed upto 16th June, 2015 due to vacation. He has, therefore, urged for grant of

limited period upto 23rd June, 2015 to extend the protection from arrest pursuant to issuance of nonailable warrants.

6 I have perused the application filed by the applicant as well as the copy of discharge card issued from Bridge Candy Hospital, Mumbai, and the earlier orders dated 1st of April, 2015 and 9th of April, 2015 passed by this Court. There is a documentary evidence to support the say of the applicant that he is suffering from serious ailment of Cancer and has undergone major surgery.

7 The applicant is an advocate by profession. In the major surgery the vital organs such as one kidney, half of the pancreas and portion of dome of Diaphragm has been removed. The applicant has provided list of number of cases allegedly filed for committing offence u/s 500 of IPC in the Court of Magistrate at Indore, which according to the applicant are filed by same person for same offence i.e. offence u/s 500 of IPC. Filing of such large number of private complaint cases u/s 500 of IPC by an individual appears to be something unusual and *prima facie* supports the case of applicant that he has been subjected to harassment by gross abuse of process of law by individual complainant. It is, therefore,

necessary that in order to enable the applicant to approach the appropriate court of law and to seek remedy available under the law, limited protection be extended by invoking powers u/s 482 of Cr. P.C. I am, therefore, inclined to pass the following order:

Non bailable warrants, if any, issued against the applicant in connection with C.C. Nos. 12669/10, 12670/10, 32953/13, 17017/10, 32948/13, 32946/13, 32951/13, 32957/13, 17015/10, 32954/13, 32945/13, 4286/14, 17763/10, 32950/13, 32949/13, 32952/13, 17016/13, 32955/13, 32947/13 and 4287/14, pending in the Court of Magistrate at Indore, M.P., shall not be executed upto 23rd June, 2015.

8 With this order and direction the application be marked as 'disposed of'.

(V. L. ACHLIYA, J.)

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