

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 631 OF 2014

Bhawarlal Jain)
 proprietor of M/s.Prince)
 Distributors, having address at)
 Shop No. 26, Maniyar Complex,)
 Koppikar Road, Dist:- Hubli-)
 540020, Karnataka.).. Applicant/Org.Accused.

Versus

1 The State of Maharashtra)
 2 M/s. Maxwell Industries Ltd.)
 having its office at C-6, Road)
 No. 22, MIDC, Andheri (E),)
 Mumbai 400 093.) .. Respondents

Mr. Ajit J. Shobhawat, Advocate for the applicant
 Mr. J. P. Yagnik, APP for the State.
 Mr. Siddharth J. Dubey, Advocate for R. No. 2.

CORAM:-V. L. ACHLIYA, J.
 DATED : -07/04/2015

ORAL JUDGMENT:

Rule. Returnable forthwith. With the consent of the parties, taken up for final disposal at the stage of admission.

2 By way of application filed u/s 482 of Cr. P.C., the

applicant has challenged the order dated 28/1/2014 passed by the learned Metropolitan Magistrate, 44th Court at Andheri, Mumbai and consequential order dated 23/4/2014 passed by the Sessions Court, Mumbai, in exercise of its revisional jurisdiction as against the order dated 28/1/2014.

3 The learned counsel for the applicant assailed the order dated 28/1/2014 mainly on the ground that the order passed by the learned Magistrate is harsh and not justified for the reasons assigned for seeking adjournment in the matter i.e. the ground of sickness of an advocate.

4 On the other hand, the learned counsel for respondent No. 2 supported the order passed by the learned Magistrate with contention that the order passed in the matter is perfectly legal and justified under the facts and circumstances of the case and more particularly the conduct of the applicant to protract the proceedings.

5 A perusal of the impugned order dated 28/1/2014 reveals that the learned Magistrate has granted adjournment subject to the payment of cost of Rs.2000/- The order passed by the learned Magistrate was challenged before the Sessions Court by filing

revision application u/s 397 of Cr. P.C. The learned Addl. Sessions Judge has dismissed the revision application, both on merits as well as maintainability, vide order dated 23/4/2014. However, extended the time for deposit of cost and further directed the learned Magistrate to extend opportunity of cross-examination to the applicant after the payment of cost.

6 Having considered the submissions advanced in the light of the orders challenged in exercise of jurisdiction u/s 482 of Cr. P. C., I am of the view that no case is made out for exercising jurisdiction u/s 482 of Cr. P.C. The order passed by the learned Magistrate, imposing cost of Rs.2000/- cannot be said to be arbitrary exercise of judicial discretion or exceeding the jurisdiction vested with the learned Magistrate. The order passed by the learned Magistrate is purely an interlocutory order. There is a bar u/s 397 (2) of Cr. P.C., to entertain the revision application against the interlocutory order. Therefore, no fault can be attributed to the orders passed by the learned Magistrate as well as the Sessions Court, which are challenge by way of application us/ 482 of Cr. P.C. In exercise of jurisdiction u/s 482 of Cr. P.C., the High Court is not

expected to intervene in the criminal proceedings at the preliminary stage. Interference by High Court in exercise of its jurisdiction u/s 482 of Cr. P.C., can only be made where a clear case for such interference is made out. I find no merits in the criminal application filed by the applicant. I, therefore, pass the following order:

(I) Criminal Application is rejected. However, the time is extended to deposit the cost of Rs.2000/- till 21/4/2015. In case the opportunity of cross-examination of the complainant's witnesses is declined to the applicant/accused for non-payment of cost, then same be accorded to the applicant, if the applicant satisfies the Court that he has deposited the cost amount within the stipulated period.

(ii) The trial Court is directed to expedite the hearing of the case.

(iii) Copy of the order be sent to the learned Metropolitan Magistrate, 44th Court at Andheri, Mumbai.

(V. L. ACHLIYA, J.)

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