

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

**CRIMINAL WRIT PETITION NO. 4327 OF 2014**

Priyesh Bheda

.. Petitioner

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. Prashant Gawali for the petitioner

Mrs. U.V. Kejriwal, APP for respondent State

**CORAM: RANJIT MORE &**

**SMT. ANUJA PRABHUDESSAI, JJ.**

**DATED: 11<sup>th</sup> AUGUST, 2015.**

**P.C.**

1. Heard learned Counsel for the respective parties.
2. By the present petition filed under Articles 226 and 227 of the Constitution of India, the petitioner is challenging the order dated 13.10.2014 passed below Exh.3 in C.C. No.100/PW/08, rejecting his application. By the said application, the petitioner has prayed to stop the proceedings of Criminal Case No.100/PW/2008 invoking the provisions of Section 258 of the Cr.P.C. and as such to discharge him in the said case.

3. The petitioner's application was rejected on two grounds. Firstly, his earlier application under the same provision was rejected and that order was confirmed upto the High Court. Secondly, the new ground raised in support of his contention was not sufficient to stop the proceedings. The new ground urged by the petitioner is the the complainant has left India and she is residing in USA. The learned Judge held that the summons for recording the evidence was not issued to the respondent no.2 – first informant and merely because she is residing out of India is not a ground to draw an inference that she will not give evidence in the present matter. The learned Judge further held that proclamation for appearance has been issued against her in another case, is not the reason to conclude that the respondent-first informant will not depose / give evidence in the present matter.

4. Be that as it may, the respondent no.2 is present before us. Respondent no.2 submits that she has come back from the USA for

the purpose of deposition in this case and she has never avoided deposition / giving evidence in the present matter. She also submitted that the petitioner is delaying the trial of the case on one ground or the other and she has to leave for the USA to join her family for a short.

5. In above circumstances, we are not inclined to entertain the petition and same is dismissed. Considering that the case is of 2008, the learned Magistrate is directed to record the evidence of respondent no.2- first informant within a period of two weeks from the date of receipt of this order and thereafter conclude the trial in respect of C.C. No.100/PW/2008 as expeditiously as possible and preferably within a period of six months.

**(ANUJA PRABHUDESSAI, J.)**

**( RANJIT MORE, J.)**