

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 4941 OF 2014
WITH
CRIMINAL WRIT PETITION NO. 4942 OF 2014
with
CRIMINAL WRIT PETITION NO. 4943 OF 2014

Ajay Y. Mafatlal .. Petitioner

Versus

State of Maharashtra & Anr. .. Respondents

Mr. Bhavesh Parmar i/b Devamani J. Shukla, Advocate for the petitioner

Mr. V. B. Konde-Deshmukh, APP for the respondent-State

Mr. M. H. Ramsinghani with D. M. Galani, Advocate for the respondent No. 2.

CORAM:-M.L. TAHALIYANI, J.
DATED : -19/01/2015

P.C.

Admit. Respondents waive service. By consent of the parties, taken up for final hearing.

2 Heard the learned counsel for the parties.

3 The petitioner is facing trial for the offence

punishable u/s 138 of the Negotiable Instruments Act, before the learned Metropolitan Magistrate, 64th Court at Esplanade, Mumbai. Hearing of the case was completed and it was fixed for pronouncement of judgment. The petitioner made an application before the trial Magistrate for recall of PW 1. The said application was rejected by the learned Magistrate. The petitioner moved the sessions Court by way of filing revision application against the said order of rejection of application for recall of PW 1. The learned Sessions Judge has adjourned the revision application for hearing but has refused to grant stay on the proceedings before the trial Magistrate. Because of this refusal on the part of Sessions Judge, the learned Magistrate is insisting for final disposal of the case and it is kept for pronouncement of judgment at 3 p.m. today. At the same time the revision application filed by the petitioner is due to be heard on 21/1/2015.

4 The learned Magistrate should have considered the

pendency of revision application against his order. At the same time the learned Sessions Judge should have also considered that when he was admitting the revision application for hearing it was necessary, in the circumstances, to stay the proceedings before the trial Court. Because of absolutely arbitrary way of dealing with the matter by both the learned lower Courts, the petitioner was compelled to rush to the High Court. In the circumstances, I pass the following Order:

The revision application shall be finally heard and decided on 21/1/2015. The proceedings before the learned Magistrate shall remain stayed till the revision application is decided. The learned Magistrate to proceed further after decision in the revision application in accordance with the order passed by the Sessions Court.

The learned Magistrate is directed to decide the case finally within a period of fifteen days from the date of receipt of order of Sessions Court.

The present three petitions stand disposed of
accordingly.

(JUDGE)

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