

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 54 OF 2016

Asif Sadiq Patel,
Age: 31 years, Occ: Private Service,
R/o. 57, Polan Peth, near Ashok
Talkies, Jalgaon.

...Petitioner

versus

The State of Maharashtra & ors.

...Respondents

.....
Mr. Vijay Sharma, Advocate for petitioner
Mr. A.B. Girase, Public Prosecutor for respondent No. 1
Mr. S.S. Chapalgaonkar, Advocate h/f Mr. S.M. Kulkarni,
Advocate for respondent Nos. 2 and 3
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CORAM : N.W. SAMBRE, J.

DATE : 31st MARCH, 2016

ORAL ORDER :

Mr. Sharma, learned Counsel for the petitioner makes motion for withdrawal of the petition, with liberty to raise the issue as is sought to be raised in the application Exhibit-86A by following proper procedure i.e. by approaching learned A.P.P. conducting trial of Sessions Case No. 65 of 2015 and to request such A.P.P. to move the application with appropriate reasons for issuance of witness summons to the witnesses mentioned in the said application.

2. The said request is objected by learned Counsel for the

respondents on the ground that the procedure as is adopted while moving the application Exhibit-86A is not as per law and the trial has reached at advanced stage.

3. According to him, in view of the fact that the respondents-accused were detained since last more than two years, the liberty as is prayed, be refused.

4. In my opinion, upon perusal of the order impugned, particularly passed on Exhibit-86A reflects that the said application was moved by the complainant. Learned A.P.P. has just endorsed the same. Learned A.P.P., while moving the same has not applied his mind. In this background, it will be appropriate, in my opinion, to dispose of the present writ petition, as withdrawn, with liberty to the petitioner to approach learned A.P.P. with request as is made in application Exhibit-86A and if the learned A.P.P. is satisfied with such request and based on the ground as will be brought to the notice of learned A.P.P. by the petitioner-complainant, the A.P.P. will be at liberty to move such application.

5. The petition, as such, stands disposed of, as withdrawn.

6. Learned A.P.P. is expected of, to take steps if any, in

view of above observations, not later than 15 days from today, failing which, the petitioner will cease to have any right to move such application.

[N.W. SAMBRE, J.]