

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.651 OF 2016

Chetan S/o Janardhan Kamble,
Age-40 years, Occu-Business and Social Work,
R/o Dr.Ambedkar Chowk, Bhimnagar,
Bhausingpura, Aurangabad.

PETITIONER

VERSUS

The State of Maharashtra

RESPONDENT

Mr.S.B.Jadhav, Advocate for the petitioner.
Mr.S.G.Karlekar, APP for the respondent/State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/06/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. I have heard the learned Advocates for the petitioner and the learned APP.

3. On 15/06/2016, this Court had passed the following order :-

“1. The learned Advocate for the petitioner submits on instructions that there are certain immovable properties in the

name of the petitioner as well as his wife. Learned APP prays for a copy of the said documents so as to seek instructions.

2. *Liberty to file the copies of the documents pertaining to the immovable properties of the petitioner and his wife.*

3. *Stand over to 29/06/2016 to enable the learned APP to take instructions in the matter.”*

4. Learned APP submits on instructions that the documents supplied to him by the petitioner are as follows :-

- [a] 7/12 extract of land admeasuring 1 acre, Gat No.67 at village Puri, Tal.Gangapur, Dist.Aurangabad
- [b] 7/12 extract of land Admeasuring 1 acre, Gat No.27 in village Zadgaon, Tal. and Dist.Aurangabad.

Learned APP submits on instructions that the first property is validly held by the petitioner and the second property is held by his wife. The documents (4 pages) supplied to the petitioner are copies of the originals and the properties are genuinely held by the petitioner and his wife.

5. The copies of the documents (4 pages) are taken on record and marked as Exhibit “X” collectively for identification.

6. It appears that the petitioner is keen to visit Germany for his business purposes. The document placed on record with regard to the invitation extended to the petitioner by the Consulate General of the Federal Republic of Germany indicates that the petitioner is being invited for visiting certain business establishments in Germany and to negotiate final details pursuant to the offers received earlier.

7. The impugned order dated 30/03/2016 rejecting application Exhibit 51 filed by the petitioner for seeking permission to travel to Germany, is passed only because he was remaining absent in the proceedings. Learned Advocate for the petitioner submits that if the application is restored, the petitioner would remain present in the Court during the hearing of the application. The learned APP submits that the request of the petitioner may be considered only if he places on record the original documents of the properties of Gat No.67 standing in his name and Gat No.27 standing in the name of his wife before the learned District and Sessions Judge in Cri.Appeal No.5/2011.

8. I find from the record that the petitioner has been granted such permission on 04/04/2016 in RCC No.1754/2000, 30/03/2016 in SC No.437/2010 and 07/05/2014 in Cri.Appl.No.5/2011.

9. In the light of the above, this petition is partly allowed. The impugned order is quashed and set aside. Application Exh.51 is restored in Cri.Appeal No.5/2011 on the following conditions :-

- [a] The petitioner shall place before the learned Court the original documents regarding his title in Gat No.67 as noted above as well as Gat No.27 standing in the name of his wife.
- [b] The Appeal Court shall consider the authenticity of the said documents and preserve them in its records.
- [c] On the condition of depositing the above original documents, the Appeal Court shall allow Exh.51.
- [d] The petitioner and his wife namely Reema Chetan Kamble shall not create third party interest in the said properties until the original documents are returned to them by the learned Appeal Court.
- [e] While considering Exh.51, the learned Appeal Court shall consider the earlier orders passed by the learned C.J.M. dated 04/04/2016 below Exh.75 in RCC No.1754/2000, the order dated 30/03/2016 passed by the learned Additional Sessions Judge-5, Aurangabad below Exh.164 in SC No.437/2010 and the order dated 07/05/2014 passed by the learned Additional Sessions Judge-3, Aurangabad below Exh.43 in Cri.Appeal No.5/2011 and may impose similar conditions on the petitioner while granting Exh.51.
- [f] The pending criminal proceedings against the petitioner shall proceed in accordance with law and shall not be adjourned only on account of the absence of the petitioner.
- [g] After the petitioner returns from Germany, he may apply for

the custody of the original documents deposited by him and his wife and the learned Appeal Court may accordingly pass an appropriate order.

10. The learned Appeal Court shall, in the light of this order, pass orders on Exh.51 urgently.

11. Parties shall act on the print out of this order obtained from the official website of the Bombay High Court.

12. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)