

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4803 OF 2014

Vijayprakash S/o Shrinivas Totla .. Applicant

Vs.

The State of Maharashtra and anr. .. Respondents

Mr. N.S. Ghanekar, Advocate for the applicant

Mr. A.S. Shinde, APP for the respondent/State

Mr. S.J. Rahate, Advocate for respondent no.2

CORAM : N.W. SAMBRE, J.

DATE : 22/06/2016

ORAL ORDER :

Heard respective counsel.

2. The present applicant is an accused no.4 in R.C.C. No.207 of 2006 initiated on the file of learned Judicial Magistrate First Class, Parali by respondent no.2 – Dattprasad Randad alleging commission of offence by the present applicant and other accused persons punishable under section 423, 424, 420, 465, 467, 468, 471 and 34 of the Indian Penal Code. The complaint came

to be initiated sometime in August 7, 2006 and after recording verification on September 19, 2006, the learned Judicial Magistrate First Class, Parali vide order dated 21/11/2006 having noted that the accused persons are residing outside the jurisdiction of the Magistrate, called report under section 202 of the Code of Criminal Procedure by postponing the issuance of process. Thereafter, on 1/12/2007, the verification of the complainant on oath was perused by the learned Magistrate and he was directed to lead oral evidence for the purpose of issuance of process.

3. When the report under section 202 of the Code of Criminal Procedure was called, the learned A.P.P. submits that the report could not be submitted as the witness and the complainant were not traced as is apparent from the report dated 7/9/2006 submitted by the concerned Police Officer.

4. The present proceeding, as stated hereinbefore are taken out questioning the order of issuance of process passed by the learned Magistrate on 9/9/2008.

5. It is brought to my notice that the present applicant has preferred Misc. Criminal Application No. 05 of 2009 before the learned Additional Sessions Judge, Ambajogai claiming condonation of delay in filing revision under section 397 of the Code of Criminal Procedure for quashing of the order of issuance of process passed by the learned Magistrate on 9/9/2008, referred supra.

6. It appears that the application for condonation of delay and also as a consequence thereof, the Revision, came to be dismissed for want of prosecution on 7/1/2014.

7. This fact is suppressed by the applicant from the Court when the present proceedings are taken up. It is then required to be noted that the order of dismissal of the revision and the application for condonation of delay could have been challenged by the applicant in an appropriate proceeding, however, it appears that the applicant has failed to approach this Court.

8. For the aforesaid reasons, in my opinion, the present Criminal Application does not call for any consideration. The Application as such fails and is rejected. Presence of the Investigating Officer is discharged.

[N.W. SAMBRE]
JUDGE

arp/