

2. The copy of complaint filed by the applicant is at Exhibit A, which shows that, in the list of witnesses, Medical Officer was cited as one of the witnesses and the Police Station Officer, Chalisgaon was also cited as witness. Learned counsel

for the applicant submits that, recording of evidence in this matter started on 6.2.2015, and on 23.4.2015, the applicant had filed application Exh.33 for calling Dr. Baviskar to identify the handwriting and signature of the Medical Officer Shri Chavan, who had issued medical certificate and who by now had expired. It was also requested to call witness Bapu Kisan Narwade from the Police Station along with N.C. register, but the trial Court wrongly rejected the application, observing that the witnesses were not named witnesses and there was direction of the High Court to expedite disposal.

3. Learned counsel for respondent No.2 submits that, the matter is pending in the trial Court since 2009 and has been unnecessarily prolonged and the respondent – accused has been harassed.

4. Going through the material, it is clear that, the orders passed by the learned Judicial Magistrate, First Class are not maintainable. Administrative directions of the High Court to expedite trials, which are more than five years old, cannot be so interpreted that on the face of record injustice would appear by denial of reasonable opportunity to a party. Recording of evidence started only on 6.2.2015. In April, rejecting of such

application to call the witnesses as made by the applicant was unjustified. If the Medical Officer Shri Chavan, who issued the medical certificate has expired, the only option for the complainant would be to either call handwriting expert or to call a witness who identifies the handwriting and signature of the late Doctor who issued certificate to prove it. How the evidence is to be appreciated would be a different aspect. However, in a complaint under Section 323 of the Indian Penal Code, stopping the complainant from proving the medical certificate cannot be justified. Similarly, when the complainant has cited P.S.O. from the Police Station and is now mentioning the name of the police official to call for N.C. register, stopping of that evidence from coming on record is also not justifiable. In the facts of the matter, the impugned orders passed by the Judicial Magistrate, First Class are not maintainable.

5. For reasons mentioned above, the criminal application is allowed. The impugned order dated 23.4.2015, below Exh.33, passed by the 2nd Jt. Judicial Magistrate, First Class, Chalisgaon in S.C.C. No.589/2009 is quashed and set aside. The application Exh.33 is allowed. The Judicial Magistrate, First Class, Chalisgaon shall grant necessary opportunity to the applicant – complainant to call for the

witnesses. The applicant – complainant undertakes to cooperate with the trial Court in securing presence of witnesses and further conducting the trial. Both the learned counsel state that the matter is already posted in the trial Court on 26th February 2016. The parties to appear on that date before the Judicial Magistrate, First Class, Chalisgaon.

The application is accordingly disposed of.

(A.I.S. CHEEMA, J.)

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