

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1 OF 2016

Jasmine B.Shah.

....Applicant.

vs.

The State of Maharashtra and ors.

....Respondents.

Mr. Vijendra Jabra for the Applicant.

Mr. Mukesh Mody for Respondent No.2.

Smt. Anamika Malhotra, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 21st July, 2016

P.C.

- 1) By the present application under Section 482 of the Code of Criminal Procedure the applicant has challenged the order dated 9.12.2015 passed by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai below Exh.116 thereby disposing off the application dated 30.3.2015 filed by the applicant.
- 2) Heard the learned counsel for the applicant and the learned counsel for respondent No.2.
- 3) By the said application dated 30.3.2015 the applicant who is accused had questioned the authority/locus standi of Advocate Shri. Mody to represent the Company. It is the contention of the applicant that Advocate Shri. Mody has not been authorized by the Company and he has only filed his Vakalatnama for and on behalf of its Managing Director Mr. Shah, the complainant, which is contrary to the provisions of law. On the said application earlier the Trial Court had passed an order dated 20.7.2015 by observing that the issue as regards, whether Advocate Shri. Mody is authorized to conduct the

trial on behalf of the complainant shall remain open and will be decided at the time of final hearing of the said trial.

4) The record further reveals that the said order was challenged by the applicant before this Court by preferring Criminal Application No.813/2015. The Co-ordinate Bench (Smt. Anuja Prabhudessai, J.) by its order dated 5.10.2015 by the consent of parties had set aside that order dated 20.7.2015 and had directed both the parties to appear before the Trial Court on 17.10.2015 for proceeding with the trial. This Court in the said order dated 5.10.2015 in Para 4 has unequivocally held that, there was sufficient authorization in favour of the learned Advocate Shri. Mody and has further held that under the circumstances mentioned in the said order the objection raised by the applicant herein is frivolous and did not deserve to be kept open or pending for decision at the time of final hearing. It is informed by the parties that the said Order still holds the field as the same was not challenged in the Supreme Court.

5) The record further reveals that the applicant again filed an application below Exh.116 praying that his application dated 30.3.2015 may be decided as the High Court has set aside the order dated 20.7.2015. It is interesting to note here that though the order dated 20.7.2015 was set aside by the High Court in view of the observations made and particularly by the consent of the parties therein as has been observed in Para No.5 of the said order dated 5.10.2015, the said fact has been deliberately not mentioned by the applicant and inter alia requested the Trial Court to decide his application dated 30.3.2015 once again. The Trial Court by the impugned order has disposed off the said application.

6) As the issue involved in the said application dated 30.3.2015 and also dealt by the impugned order dated 9.12.2015 has already been decided by this Court in the earlier round of litigation i.e. in Criminal Application No.813 of 2015, I find that there are no merits at all in the present application. I am of the considered view that the applicant herein is adopting dilatory tactics only with a view to procrastinate the trial.

7) As mentioned in the earlier para the objection raised by the applicant has been held to be frivolous by this Court and therefore, I find no merits in the present application. Application is accordingly dismissed.

8) As the complaint bearing Case No.2155/2006 is pending for final adjudication since the year 2006, the learned Additional Chief Metropolitan Magistrate, 47th Court, Mumbai seized of the said case is hereby directed to expedite the same and to make an endeavor to conclude it on or before 31st December 2016.

(A.S. GADKARI, J.)