

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1033 OF 2015

Naresh Amritlal Shah & Others Petitioners

Vs.

Jaysukh C. Shah & Respondents
The State of Maharashtra

Mr. V.M. Advani alongwith R.R. Shah i/by Sachwani Anand Mohanlal
for the Petitioners.

Mr. Chandrakant Talekar alongwith M. Alisha Parekh i/by L.J. Law,
Advocate for Respondent no.1.
Mr. Deepak Thakare, APP for the State of Maharashtra.

Coram : Smt. R.P SondurBaldota, J.

Date : 5th January, 2016

P.C.

1 This petition filed on 16th March, 2015, under Article 227 of Constitution of India and under Section 482 of Code of Criminal Procedure seeks quashing of Private Criminal Complaint bearing No.32/S/W/2004 (Old Number No.28/S of 1999) pending in the Court of Metropolitan Magistrate, 61st Court, Kurla, Mumbai. Mr. Talekar, the learned advocate for respondent no.1 points out that the attempts by the petitioners at quashing of the complaint and also recalling of the process have been frustrated in the past and this

petition is nothing but another attempt on the part of the petitioners to stall the trial in the complaint. He submits that the trial is delayed on account of such applications of the petitioners, the adjournments taken by them and on account of death of some of the accused. Mr. Advani, the learned advocate for the petitioners denies that the petitioners are the cause for the delay.

2 Undisputedly, the complaint was filed in the year 1998. The process in the complaint was issued to the petitioner on 21st July, 1999. The petitioners had filed a petition for quashing the issue of process. That petition was dismissed by the order dtd. 19th June, 2001. Thereafter, the petitioners filed an application before the Sessions Court for recall of the process, which application was rejected by the order dtd. 24th December, 2002. Then the trial court framed the charge on 19th March, 2003 and the complaint is pending since then for trial.

3 It is relevant to note that the earlier attempts on the part of the petitioner of getting the complaint quashed have been unsuccessful. Mr. Advani submits that a fresh petition has been filed for quashing the proceedings, on account of subsequent event of the dismissal of two identical complaints filed by the respondents. One of those complaints was dismissed because the complainant had not remained present in the court and the second complaint was dismissed after due trial. The submission advanced is preposterous. Merely because some other similar complaints filed by respondent

no.1 against the petitioners are dismissed, the present proceedings cannot be quashed. It is obvious that filing of the present petition is nothing but an attempt on the part of the petitioners in avoiding the trial. Hence, the petition is dismissed with costs. The petitioners shall pay costs quantified at Rs.25,000/- to respondent no.1. In the facts of the case, the trial is expedited. The trial court shall endeavour to dispose off the complaint within a period of six month from the date of receipt of copy of this order.

(Smt. R.P. SondurBaldota, J.)