

Anand

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

WRIT PETITION NO.2558 OF 2016

Dr. Rahul Madhusudan Deo .Petitioner
Indian Inhabitant,
Aged about 39 years,
having his place of residence
at House No.1, Ratan Colony,
Jivajiganj, Lashkar,
Gwalior, Madhya Pradesh.

Vs.

The State of Maharashtra .Respondent
(Through the office of the
Public Prosecutor, High Court,
Bombay)

Mr.Girish Kulkarni i/b. Ms Mrunmai Kulkarni,
Advocate, for the Petitioner
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.08.2016

P.C.

. Heard learned counsel for the
Petitioner and the learned APP for the
Respondent – State.

2. Rule. Rule made returnable, forthwith.

3. By consent, the Petition is taken up for final disposal.

4. By this Petition, the Petitioner (Original Accused No.1) has sought the following reliefs:-

"a) The Writ Petition be admitted and allowed;

b) That this Hon'ble Court be pleased to direct the Judicial Magistrate First Class, Nashik Road to close the evidence of PW-1 Mrs.Manisha Rahul Deo in RCC No.331 of 2010 on the grounds of her non-attendance in trial and to proceed with the next stage in trial by issuing summons to other witnesses named by the prosecution in the Chargesheet;

c) This Hon'ble Court may be pleased to direct the Judicial Magistrate (First Class), Nashik Road to expedite the RCC No.311 of 2010 and complete the trial within the period as fixed by this Court;

d) Any other and further reliefs as the nature and circumstances of the case may require."

5. Learned counsel for the Petitioner submits that the Complainant has not appeared before the trial Court since March, 2015 till date. He submits that the Complainant is presently under cross-examination and that she had only appeared on one date i.e. on 09.03.2015 after which she did not deliberately appear before the trial Court. He submits that the Petitioner had preferred several Applications seeking issuance of non-bailable warrant against the Complainant for securing her presence, so that the trial could conclude expeditiously. He submits that the learned Judge issued a bailable warrant against the Complainant on 05.05.2015. He submits that despite the same and despite the fact that the Complainant had engaged a private Advocate, the Complainant had failed to appear before the trial Court, thereby delaying the trial. He submits that the trial Court be directed to conclude the case as expeditiously as possible and to proceed with the case in the

event, the Complainant fails to appear before the trial Court.

6. Learned APP has no objection, if the trial is expedited and made time bound.

7. Perused the papers.

8. The case is of 2010. The Petitioner alongwith other co-accused are facing trial in connection with offences punishable under Sections 498A, 292A, 323, 504, 506 r/w.34 of the Indian Penal Code. On 28.07.2011, learned Magistrate framed charges against the Petitioner and other co-accused and thereafter, on 02.02.2015, the examination of the first witness i.e. the Complainant commenced. The cross-examination of the said witness commenced on 03.02.2015 and the matter was adjourned to 09.03.2015. On 09.03.2015, the case was again adjourned to 05.05.2015 for further

cross-examination. However, it appears from a perusal of the roznama, that the Complainant (PW.1) did not remain present before the learned Magistrate. It also appears that on the Application preferred by the Petitioner, being Exh.72, a bailable warrant was issued against the Complainant. It appears that thereafter, from time to time, several Applications were preferred by the Petitioner in the trial Court, praying therein that the Complainant be directed to remain present as also the other witnesses in the said case, however, till date, there is no progress in the trial. The case is of 2010, charge was framed in July, 2011 and the evidence commenced only in February, 2015.

9. Considering the aforesaid peculiar facts of the case, it would be appropriate to direct the learned Magistrate who is seized of R.C.C.No.331 of 2010 to decide the case as expeditiously as possible and preferably within

four months from the date of receipt of the said order.

10. Accordingly, the Writ Petition is disposed of. Rule is made absolute on the aforesaid terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)