

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.3102 OF 2013

Wilson Benjamin Castellino ... **Petitioner**

V/s.

The State of Maharashtra ... **Respondent**

.....

Mr. H.J.Dedia, APP for the Respondent/State.

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**CORAM : SMT. V.K. TAHILRAMANI &
 MRS. MRIDULA BHATKAR, JJ.**

DATE : DECEMBER 21, 2016.

P.C.:

1 Heard the petitioner on video conferencing as well
as learned APP for the State.

2 The petitioner is a convict who is undergoing life
sentence. The petitioner has raised various grievances in this
petition.

3. The first grievance is that he was handcuffed when he was being taken to be produced in the Court, hence, notice be issued to the Superintendent of Police, Sangli in relation to the petitioner being handcuffed when he was produced in the Court. As far as this grievance is concerned, the petitioner had earlier preferred Criminal Writ Petition No.1102 of 2013 before this Court and raised the same contention. The said Writ Petition was dismissed by this Court on 07/11/2014. Thus, it is not possible to again consider this contention. However, we would like to add that as far as the handcuffing is concerned, the petitioner was handcuffed only after the permission was obtained from the Magistrate to do so as it was apprehended that the petitioner would abscond in view of the fact that in the year 2010, when the petitioner was released on furlough and he had to surrender on 04/12/2010, he did not surrender in time and after 674 days, the petitioner was arrested in C.R. No. 14/2012 of Vita Police Station and C.R. No. 3104 of 2012 of Karad Police Station and he was brought back to prison. As

the grievance of the petitioner in relation to handcuffing has already been looked into by this Court in Writ Petition No.1102 of 2013, it is not possible to consider any contention in relation to the same again.

4 The further grievance of the petitioner is that he was involved falsely in C.R. Nos. 14/2012 of Vita Police Station and C.R. No. 3104/2012 of Karad Police Station in which cases the charge sheet was not filed, hence, he is seeking discharge. It is seen that charge sheet has been filed in crime relating to Vita Police Station on 29/4/2015. So far as Crime relating to Karad Police Station is concerned, the charge sheet has not yet been filed. As far as prayer for discharge is concerned, it would be appropriate that the petitioner makes an application for discharge before the trial Court and we are not inclined to consider the same directly before this Court.

5 The next grievance of the petitioner is that he is not produced in the Court in these two cases i.e C.R. No. 14 of 2012 and C.R. No. 3104 of 2012. The same contention was taken by the petitioner in Criminal Writ Petition No. 2359 of 2013 in which Shri. Bharat Mahadeo Bhosale, In-charge Superintendent of Kolhapur Central Prison, Kalamba has filed an affidavit on 5.2.2014. In the affidavit, it is stated that in the case relating to Vita Police Station, the petitioner has been produced in the Court from 19/12/2012 till 29/07/2013. During this period, he was produced in the Court on 15 occasions and only on two occasions i.e on 21/05/2013 and 07/06/2013, he could not be produced in the Court as police escort was not available. Thereafter, from 26/08/2013 onwards till 09/12/2013, the petitioner could not be produced in the Court though police escort was available because the petitioner refused to attend the Court. Thus, it is seen that the petitioner himself refused to attend the Court, hence, he cannot make capital of the fact that he is not produced in the

Court. Thus, in the period from 26/08/2013 to 09/12/2013, on seven occasions though the police escort was available, the petitioner refused to attend the Court. During this period, only on one occasion i.e on 26/11/2013, police escort was not available. However, it is seen that the next date thereafter i.e on 09/12/2013, though the escort was available, the petitioner refused to attend the Court.

6 As far as recent position in Crime 3104/12 relating to Karad police station is concerned, no charge-sheet has been filed. Hence, there is no question of the petitioner being produced before the learned Magistrate in that case. As far as the recent position relating to C.R. of Vita police station is concerned, it is seen that on 16/11/2015 and 30/11/2015, the petitioner was produced before the Court. On 14/12/2015 he was not produced as police escort was not available. On the next dates that is 29/12/2015, 11/01/2016, 25/01/2016, 08/02/2016 and 22/02/2016, the petitioner was produced

before the Court. On the next date i.e. on 07/03/2016, the petitioner refused to attend the Court. On the next date i.e. on 21/03/2016 and 04/04/2016 the petitioner was produced before the Court. Thereafter, on next date i.e. 10/05/2016, the petitioner was produced before the Court i.e. learned J.M.F.C., Vita. Thus, it is seen that petitioner has been produced on all dates except one date when police escort was not available and except one day when he himself refused to attend the Court. In any event, the petitioner states that now he has no grievance about being produced in Court on the dates given by the learned J.M.F.C.

7 The next grievance of the petitioner is that he is involved in two cases i.e. Crime No.14 of 2012 of Vita police station and Crime No.3104 of 2012 of Karad police station, however, charge-sheet has not been filed in both these cases. So far as this contention is concerned, it is seen that charge-sheet has been filed in Crime relating to Vita police station on

29/04/2015. So far as Crime relating to Karad police station is concerned, the charge-sheet has not yet been filed. Further case of the petitioner is that as the charge-sheet was not filed within time, he should be given benefit of Section 167(2) of the Code of Criminal Procedure. In fact, in crime relating to Vita police station he has been ordered to be released on bail on personal bond and crime relating to Karad police station, he was ordered to be released on bail on personal bond of Rs.15,000/- and one surety in the sum of Rs.1,000/-. It is seen that the petitioner has got the benefit of Section 167(2) of the Code of Criminal Procedure in both these cases. The petitioner has preferred an application before the J.M.F.C. Vita for reduction of bail amount and the grievance of the petitioner was that the application was not decided. However, the petitioner now states that in relation to the orders granting bail in both the cases, he has no grievance and he is not seeking any relief in relation thereto.

8 The next prayer of the petitioner is that he has not been furnished copies of case papers in Crime No.14 of 2012 of Vita police station. Grievance of the petitioner is that his application seeking papers in the said case is pending. However, it is seen that in the said case, charge-sheet has been filed on 29/04/2015. The copies thereof were made available to the petitioner on 6.10.2015 which is clear from the report of J.M.F.C. Vita. The copy of the said report is taken on record and marked "X" for identification.

9. In view of the above facts, this petition is disposed of.

10. Office to furnish copy of this order to the petitioner who is in Kolhapur Central Prison, Kalamba, Kolhapur.

[MRS. MRIDULA BHATKAR, J] [SMT. V.K. TAHILRAMANI, J.]