

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3041 OF 2016**

Dr. Suhas Sampat Jadhavar & Anr.	...Petitioners
Versus	
Dr. Piyush Pradeep Patil & Anr.	...Respondents

Mr. V. S. Talkute for the Petitioners

Mr. Avinash Kamkhedkar, A.P.P for the Respondent No. 2-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 2nd SEPTEMBER, 2016

P.C. :

1. Heard learned Counsel for the petitioners and the learned A.P.P for the State.

2. By this petition, the petitioners seek quashing and setting aside of the order dated 19th August, 2016 passed by the learned Magistrate, Sangola in RCC No. 231 of 2015 below Exhibit 1, by which the case was fixed for hearing on day-to-day basis with further direction that no adjournment will be granted. The petitioners have also prayed that a

direction be given to the learned Magistrate to grant suitable and reasonable opportunity to the petitioners and to decide the case by the end of October, 2016.

3. Learned Counsel for the petitioners states that till date, six witnesses have been examined and that the petitioners (accused) are yet to cross examine the said witnesses. He submits that because of the haste in which the matter is being proceeded with, the petitioners (accused) are not getting a reasonable opportunity of defending their case. He submits that no order of the High Court was placed on record, pursuant to which the said matter was directed to proceed on day-to-day basis. He submits that in the interest of justice, a fair opportunity be given to the petitioners (accused) to defend their case, without hurrying up with the case, as is being done by the learned Magistrate. It is informed that trial Court has set 31st August, 2016 as the deadline for completing the trial, only in this case. He submitted that process in the said case was issued only on 18th February, 2016 and that the hearing of the said case has been pre-poned, by the learned Judge, because of the directions issued by the learned Sessions Judge. Learned A.P.P is also unable to place on record any order passed by this Court expediting

RCC No. 231 of 2015 on day-to-day basis. Learned A.P.P does not dispute the fact, that the petitioners (accused) should be given a fair opportunity to defend their case.

4. Perused the papers, in particular, the order dated 19th August, 2016 and the letter dated 12th August, 2016. Although there is a reference in the said letter dated 12th August, 2016 that the High Court had directed the learned Sessions Judge to expedite the hearing and dispose of the case on day-to-day basis, on making inquiry with the Registry, it is stated that no such direction has been given by the High Court atleast in writing.

5. Be that as it may, it appears that six witnesses have been examined till date by the trial Court and the petitioners (accused) are to proceed with the cross-examination of the said witnesses. Needless to state that in a trial, the accused ought to be given a fair and reasonable opportunity to defend their case. Only on the ground, of disposing of the matter expeditiously, the petitioners cannot be denied the said right. 'Justice must not only be done, but seen to be done' must be borne in mind. Accused must be given a fair and reasonable opportunity to defend their

case. Undue haste may result in gross prejudice to the petitioners in preparing with their defence.

6. Learned Counsel for the petitioners informs that the matter is kept on 6th September, 2016 for cross-examination of all the six witnesses and for advancing final arguments in the said case.

7. The petitioners (accused) are required to cross-examine six witnesses and therefore sufficient time must be given to the petitioners (accused) to cross-examine the witnesses and for adducing their own evidence, if required. The accused have a right to proceed with their case and to adduce evidence, if they so desire, in support of their case and only on the ground that the trial has to be concluded in a time bound manner, the petitioners cannot be deprived of the said right. Process was issued only on 18th February, 2016 and it appears that the trial has been pre-poned, due to a letter received from the learned Sessions Judge. The petitioners are facing serious charges and in these circumstances, denial of a fair opportunity to cross-examine witnesses and adduce evidence, is denial of the right to a fair trial. Accordingly, the learned trial Judge is directed to give a fair

opportunity to the petitioners (accused) to cross-examine the witnesses and to adduce their own evidence, if they so desire. The trial Court may conclude the case by September, 2016/October, 2016. The trial Court shall, if necessary, accommodate the Advocate for the petitioners (accused), if so required and also give sufficient opportunity to the petitioners (accused) to cross-examine and adduce the evidence in their defence.

8. The petition is disposed of on the aforesaid terms.

9. The learned A.P.P to communicate the order passed today to the learned A.P.P conducting the said case in the trial Court.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.