

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1098 of 2015

Barnali Baishya .. Applicant
Versus
The State of Maharashtra & Ors .. Respondents

Mr.Devendra B. Shukla, Advocate for the applicant.

Mr.R.B. Mokashi with Ms.Charulata S. Khana, Advocate for respondent no.3.

Mrs.P.P. Bhosale, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 7th MARCH, 2016

P.C. :

1 Heard Mr.Devendra Shukla, learned counsel for the appellant. Heard Mr.R.B.Mokashi, learned counsel for respondent no.3.

2 By consent, admitted and taken up for final hearing forthwith as was already indicated in the order dated 8th January 2016.

3 This is an Appeal filed under the provisions of section 341 of the Code of Criminal Procedure (for short 'the Code'). The appellant is the First Informant. She has filed a report alleging commission of offences punishable under Sections 354 IPC, 376B

IPC, 420 IPC and 506 of the IPC by the respondent no.3 herein. Investigation is in progress. The respondent no.3 moved the Court of Sessions, seeking Anticipatory Bail which came to be granted. The grievance of the appellant is that while securing Anticipatory Bail, the respondent no.3 has produced some false documents before the Court, and that he had committed an offence punishable under section 193 of the IPC. The appellant made an application (Miscellaneous Application No.607/15) before the Court of Sessions, praying that an inquiry as contemplated under section 340 of the Code be made, and a complaint be lodged against the respondent no.3 herein.

4 On this application, the learned Sessions Judge passed an order, the operative part of which reads as follows :-

1. Misc.Application no.607 of 2015 be kept along with main matter to decide the same at the conclusion of the trial.
2. Misc. Application no.607 of 2015 be attached to the chargesheet of the case in crime no.205 of 2014 after filing of the chargesheet.

5 I have gone through the entire order passed by the learned Addl. Sessions Judge.

6 In my opinion, the order, in effect, amounts to not deciding the application made by the appellant. The learned Addl. Sessions Judge has observed that the application 'be attached to the charge-sheet of the case *after the filing of the charge-sheet*'.

7 In my opinion, this order is not proper.

8 The matter is still at investigation stage. One would not know whether the investigation will culminate in the filing of the charge-sheet. The grievances raised by the appellant were basically about the respondent no.3 having wrongfully secured Anticipatory Bail by producing before the Court false documents and that, in the proceedings before the Court of Sessions, the respondent no.3 had committed an offence/offences referred to in clause (b) of sub-section (1) of section 195 of the Code.

9 I am informed that the appellant has already filed an application for cancellation of the Anticipatory Bail granted to the respondent no.3 and that the same is pending in this Court.

10 In my opinion, the learned Addl. Sessions Judge, in the circumstances, should have decided the application made by the applicant within a reasonable time. To this extent, the impugned order needs to be interfered with.

11 Appeal is partly allowed.

12 The impugned order is set aside.

13 The Addl. Sessions Judge shall consider the application made by the appellant and decide the same in accordance with law, within a reasonable time.

14 It is clarified, for removal of doubt, that no opinion on
the merits of the matter, has been expressed by this Court.

15 Appeal is disposed of accordingly.

(ABHAY M.THIPSAY, J)