

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

CRIMINAL WRIT PETITION NO. 4576 OF 2016

Ms. Kalpana Springwala	 Petitioner
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Mohammad Shine i/b M2M Legal for the Petitioner.
Mrs. N.S. Jain, APP for Respondent No.1/State.
Mr. Abad Ponda i/b Sameer Nangre for the Respondent No.2.

CORAM : K. K. TATED, J.
(VACATION COURT)
DATED : 30/12/2016

PC.:

. Not on board. At the request of Advocate for the petitioner, matter is taken on board for urgent orders.

2 Heard learned Counsel for the parties.

3 By this Writ Petition, the petitioner is challenging the order dated 20.12.2016 passed by the learned Metropolitan Magistrate 53rd Court, Mulund, Mumbai in MECR No. 05/2016 registered with the Bhandup Police Station arisen out of C.C. No. 97/SW/2016 cancelling Petitioner's Bail on mainly two grounds, that petitioner failed to comply the undertaking and pursis given by her before the Court for appointment of auditor to audit books of account to find out how much amount due and payable by her to Respondent No.2 and secondly, petitioner failed to attend the concerned Police Station regularly.

4 During the course of the argument, the learned counsel for the Respondent No.2 submits that if the petitioner is ready and willing to comply the undertaking given by her before the trial court and pursis filed in the Court, then they have no objection to set aside the order dated 20.12.2016 by which petitioner's bail stands cancelled.

5 The learned counsel for the petitioner submits that petitioner is ready and willing to appoint Mr. Nayak Sunil Seth, Chartered Accountant having his office at New Swami Chawl, 4/9 Subhash Nagar, Asalfa Village, Ghatkopar (W), Mumbai as an Auditor to audit petitioner's as well as Respondent No.2's books of account to find out how much amount due and payable by the petitioner to Respondent No.2. He further makes a statement that petitioner undertakes to pay charges of the Auditor and to comply the undertaking as well as pursis given by her before the Metropolitan Magistrate, 53rd Court, Mulund, Mumbai on the basis of Auditor's report.

6 Statement is accepted.

7 By consent of both the parties, following order is passed:

a) Order dated 20.12.2016 passed by learned Metropolitan Magistrate 53rd Court, Mulund, Mumbai in M.E.C.R. No. 05/2016 stands set aside.

b) Mr. Nayak Sunil Seth, Chartered Accountant having his office at New Swami Chawl, 4/9 Subhash Nagar, Asalfa Village, Ghatkopar (W), Mumbai is appointed as an Auditor to audit the books of account of Petitioner as well as the Respondent No.2 to find out how

much amount payable by the petitioner to Respondent No.2.

c) Liberty granted to both the parties to submit their books of account and statement, if any, before the auditor within two weeks from today.

d) Auditor to submit his report to the concerned Metropolitan Magistrate 53rd Court, Mulund, Mumbai in C.C. No. 97/SW/2016 within six weeks from today.

e) Petitioner shall comply her undertaking as well as pursis filed by her before the trial court, on the basis of Auditor's report.

f) In case, the petitioner failed to comply this order by appointing the Auditor within one week from today and inform the other side or their Advocate in writing, Writ Petition shall stand dismissed, without further reference to the court.

g) Liberty granted to the Petitioner, if she so desire, to prefer appropriate proceeding in respect of remaining prayers.

h) Parties to act on authenticated copy of this order.

i) Writ Petition stands disposed of accordingly.

(K.K.TATED, J.)