

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 549 OF 2017**

Abhishek Kumar Mishra
versus

....Petitioner

Seema M. Bhalerao and anr.

....Respondents

Mr. J. P. Yagnik, advocate for the petitioner (as amicus curiae).
Mrs. P. H. Kantharia, advocate for the Union Territory(Dadra and Nagar
Haveli).
Mrs. Aruna S. Pai, APP for the State.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 4th MAY, 2017.

P. C. :

The petition is filed in person by the petitioner and, accordingly, he applied for permission to argue the matter in person before the Committee. After hearing the petitioner-in-person, the Committee was of the opinion that he would not be able to provide appropriate assistance as contemplated under the relevant Rules of this Court for disposal of the petition. The Office Report to that effect is on record. In the teeth of this report, on the last occasion, we orally requested Mr.Yagnik, learned APP, to appear on behalf of the petitioner as amicus curiae. The petitioner had also consented for the same.

2. Accordingly, we have heard Mr. Yagnik, learned counsel for the petitioner and Mrs. Katharia, learned counsel for the Union Territory of Dadra and Nagar Haveli.

3. By this petition, the petitioner is seeking following directions :

- 1) To permit him to appear in person in RCC No.27 of 2016 pending before JMFC at Silvassa;
- 2) To dispose of the said case in speedy manner and
- 3) To transfer the said case from JMFC to Chief Judicial Magistrate.

4. The main grievance of the petitioner in the above petition is against the learned APP appearing in the said case. He has alleged that learned APP is not co-operating with him and has remained absent on various dates. Mrs. Kantharia, learned counsel for the Union Territory, on instructions, makes a statement that the said APP has now been transferred and a new APP is appointed to conduct the trial in the subject case. Otherwise also, in the light of the report of this Office as well as considering the manner in which the petition is drafted and filed, we are of opinion that the petitioner is not fit to appear in person in the said case. The petitioner is always at liberty to assist the learned APP. Thus, the first grievance of the petitioner stands redressed. So far as the second grievance of the petitioner is concerned, we find that the

accused has filed a discharge and exemption application. We direct the learned JMFC to dispose of the said application expeditiously and preferably within a period of six months from the date of receipt of this order. As far as the third grievance of the petitioner is concerned, we do not find any reason to re-transfer the case back to learned Chief Judicial Magistrate. We are, therefore, not inclined to grant the said prayer.

5 In the light of above order, the writ petition stands disposed of.

6. We place our appreciation on record for the assistance rendered by Mr.Yagnik, learned APP.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]