

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.514 OF 2017

SHYAM PANDURANG THORBOLE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Swaraj Jadhav a/w. Mr.Vijay Garad, Mr.Jagdish Dagade,
Advocate for the Applicant.

Mr.Shishir Hirey, Special Public Prosecutor, a/w. Mr.S.V.Gavand,
APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 2nd NOVEMBER 2017

P.C. :

1 By this instant revision petition, the revision petitioner / accused is challenging the order dated 24th August 2010, which is infact not an order but the Charge framed against him for several offences, by the learned Additional Sessions Judge-1, Thane, in Special Case No.17 of 2013 with Special Case No.18 of 2013 with Special Case No.1 of 2014 with Special Case No.38

of 2014 with Supplementary Special Case No.17 of 2013. Charges are framed against the present revision petitioner / accused no.14 along with 26 other accused persons for offences punishable under Sections 119 read with 34, 304 read with 34, 304 read with 110, 120B, 466 read with 34, 468 read with 34 of the Indian Penal Code (IPC) and under Sections 8, 13(1)(d) read with 13(2) of the Prevention of Corruption Act (P.C.Act).

2 Heard the learned advocate appearing for the revision petitioner/accused no.14. Apart from submissions on merit, the learned advocate for the revision petitioner/accused no.14 has vehemently argued that framing of charge is a final order which ultimately affects the right of parties and therefore, the same is revisionable order and not interlocutory order.

3 The learned APP appearing for the State opposed the revision petition by contending that as of now, three prosecution witnesses are already examined in the trial.

4 In the instant case, I am not inclined to exercise the extraordinary revisional jurisdiction of this court for the following reasons :

(a) The revision petitioner/accused no.14 had initially filed an application at Exhibit 235 before the learned Additional Sessions Judge, Thane, seeking his discharge from the special case. The learned Additional Sessions Judge, Thane, as per requirements of provisions of Sections 226 and 227 of the Code of Criminal Procedure, heard the learned advocate for the revision petitioner/accused no.14 as well as the learned prosecutor and has come to the conclusion that the case cannot be a case wherein there is no evidence against the revision petitioner/accused no.14, and as he found that there were sufficient grounds for proceeding against the revision petitioner/accused no.14, the application for discharge moved by him came to be rejected by the order dated 30th November 2015.

(b) Feeling dissatisfied by the order below Exhibit 235 rejecting his claim for discharge by the learned Additional Sessions Judge,

Thane, on 30th November 2015, the revision petitioner/accused no.14 has approached this court by filing a writ petition bearing no.2127 of 2016. That writ petition came to be disposed of by an order dated 25th January 2017 by this court with the following order :

“1) After the petition is argued for a substantial length of time, Mr. Jadhav, the learned Advocate appearing for the petitioner, seeks to withdraw the same. The petition is allowed to be withdrawn.”

(c) Bare perusal of this order dated 25th January 2017 goes to show that the claim of the revision petitioner/accused no.14 for discharge was heard by this court at substantial length and then it appears that when this court was not inclined to grant relief to the present revision petitioner/accused no.14, he had withdrawn the said writ petition. Thus, the order rejecting the application for discharge moved by the present revision petitioner/accused no.14 is confirmed because of withdrawal of the Writ Petition no.2127 of 2016 by the present revision petitioner/accused no.14. This, prima facie, indicates that even this court while deciding the writ

petition filed by the present revision petitioner/accused no.14 had come to the conclusion that there are sufficient grounds for proceeding against the present revision petitioner/accused no.14. Ultimately, after framing of the charge, next stage is recording of evidence of prosecution. In the case in hand, work of recording of evidence of prosecution has commenced and three prosecution witnesses are already examined.

5 In this view of the matter, the present revision petition cannot be entertained and therefore the order :

ORDER

The revision petition is dismissed.

(A. M. BADAR, J.)