

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1172 OF 2017

Navnath Nivrutti Chandane	...	Petitioner
Vs.		
The State of Maharashtra	...	Respondent

Mr.P.G.Sarda,Advocate for the petitioner.
Ms. A.M.Malhotra,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 29th March, 2017.

P.C.

Heard. Rule. Rule made returnable forthwith with the consent of the parties.

2. By way of the present Petition, the petitioner herein is praying that the Addl. Sessions Judge, Barshi, seized with Sessions Case No.59 of 2014, be directed to hear and record evidence on the stipulated dates and to conclude the trial within a specific period. Upon perusal of the Roznama, it appears that in the present Sessions Case, there are in all 13 accused persons. One of the co-accused has expired during the pendency of the trial. All accused are on bail. One of the co-accused had filed an application seeking transfer of the Sessions Case to any other Court. The Criminal Application No.107 of 2017, which was filed under Section 409 of

Cr.P.C. has been withdrawn in the High Court on 3.3.2017. That till today, three witnesses have been examined. One of the co-accused had filed an application seeking adjournment. Another co-accused was not present and the learned counsel appearing for the accused had filed an application that the evidence be recorded in the presence of the accused. It appears from the Roznama that the 12 accused persons have chosen to remain absent on one or the other date and had protracted the trial. The witnesses were present and Bhatta was paid to the witnesses.

3. The learned counsel for the petitioner submits that the next scheduled date is 7.4.2017 and there is every possibility that once again the hearing of the Sessions Case would be adjourned and, therefore, the petitioner herein was constrained to file the present Petition.

4. It is pertinent to note that in the order dated 1.7.2016, this Court had specifically directed the learned Sessions Judge not to entertain any interim application filed on behalf of the applicant. In fact, it should have been construed as a direction not to entertain any interim application for adjournment filed by any of the co-accused. This Court had also directed that in the eventuality the accused seeks any exemption or attempt to protract the trial, the learned Sessions Judge shall issue non-bailable warrant and ensure the presence of the accused at the time of recording of

evidence.

5. Despite the said orders, it appears that the learned Sessions Judge has shown leniency with the accused persons as well as the Advocates representing the accused. It is incumbent upon the learned Sessions Judge to take charge of the trial with which he is seized. It is incumbent upon him not to be a silent spectator by simply granting applications seeking adjournment. The learned Sessions Judge shall take coercive steps against the accused persons who make an attempt to protract the trial as the case is committed to the Court of Sessions in the year 2014. The learned Sessions Judge is hereby once again directed to conclude recording of evidence within six months from the date of receipt of this order.

6. Rule is made absolute in the above terms. Writ Petition stands disposed of.

(SMT. SADHANA S.JADHAV, J.)