

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1170 OF 2016

Akhtar Akbar Sayyad.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Satish R. Mishra for the Petitioner.

Ms. S. D. Shinde, APP for the State.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.

Date : **June 14, 2017.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. Petition is filed for following reliefs :

“(a) That this Hon'ble Court please to pass appropriate writ, order, direction directing Respondent No. 2 to appoint any independent officer or agency to conduct the investigation in respect of consent terms dt. 1/4/2015 executed when the Petitioner was in jail.

(b) that this Hon'ble Court please to pass appropriate writ, order, direction directing the officer of Respondent No. 3 to register FIR against Respondent No. 4 who misguided the officer and obtaining the signature on consent terms dtd. 1/4/2015 on such terms as this Hon'ble Court may deem fit and proper.”

2. The Petitioner came to be convicted in criminal cases filed by Respondent No.4 under section 138 of the Negotiable Instruments Act, 1881 and directed to pay total compensation of Rs.49

lakhs to Respondent No.4. The Petitioner did not comply with this order therefore he was taken into custody. The Petitioner challenged Magistrate's order under section 138 by filing an appeal. Since there was delay, he also filed an application for condonation of delay. The Petitioner executed consent terms dated 1st April 2015 while in jail and agreed to pay to Respondent No. 4, a sum of Rs.60 lakhs. On the basis of these consent terms, the Petitioner was released on bail during the pendency of appeal and delay was condoned.

3. Thus, the Petitioner got favourable orders on the basis of the consent terms and therefore now he cannot contend that he did not give consent and it does not lie in his mouth that consent terms are executed without his consent. The Petitioner gave amount of Rs.10 lakhs only and balance amount of Rs.50 lakhs was not given. The Petitioner's appeals were dismissed by the Sessions Court, Thane and thereafter the Petitioner approached this Court by filing three revisions. The revisions were admitted on the Petitioner's statement that he will deposit an amount of Rs.10 lakhs in each revision. However, the Petitioner did not deposit the said amount. The report dated 22nd March 2016 filed by the Police Station, Nerul shows that the Petitioner is not even residing at the address given in the cause title of

the petition. The Petitioner's whereabouts are also not known. The Petitioner cannot take advantage of his own wrongs. We are, therefore, not inclined to exercise our jurisdiction under Article 226 of the Constitution of India. Writ petition is accordingly dismissed.

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]