

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

CRIMINAL WRIT PETITION NO.2509 OF 2017

Mrs. Rajalaxmi Anantha Subramanian ... **Petitioner**

V/s.

State of Maharashtra and anr. ... **Respondents**

Mr.Manish Bohra i/by M/s A.S.Khan & Associates for the
Petitioner.

Mr.Vinod Chate, APP for Respondent No.1/State.

Mr.S.R.Shinde for Respondent No.2/CBI.

CORAM : A.M.BADAR J.

DATED : 18th September 2017.

P.C. :

1. The order dated 12th June, 2017 rejecting the application Ex. 293 moved by writ petitioner/original accused No. 3 is impugned in the instant petition.

2. The writ petitioner /accused No. 3 moved an application for allowing her to answer the charge framed against her by the court through her Advocate and also to permit her Advocate to plead not guilty to the charge. The said application came to be rejected principally on the ground that the medical certificate filed in support of the said application is vague and not depicting the fact the writ petitioner/accused No.3 is absolutely barred from

travelling.

3. Heard the learned Advocate appearing for the petitioner. He submitted that infact the petitioner/accused No.3 is totally bed-ridden and cannot move for answering the charge. He submits that provisions of Section 317 of the Cr.P.C. enables the accused facing trial of warrant case to answer the charge through his Advocate. He submits that the learned Trial Court has totally overlooked the undertaking given by the writ petitioner/accused No.3 to the effect that she will not claim any prejudice for answering the charge and pleading not guilty through her Advocate.

4. The learned Advocates appearing for respondents support the impugned order contending that the petitioner should appear before the Court for answering the charge.

5. I have carefully considered the rival submissions.

6. Section 317 of the Cr.P.C. r/w Section 205 thereof enables dispensation of personal attendance of the accused. In the case in hand, the petitioner/accused No. 3 in unequivocal terms had given an undertaking before the Trial Court that she will not claim any prejudice if the charge is explained to her Advocate and if her Advocate pleads not guilty to it. The writ petitioner

relied on medical certificate to show that she was not in a condition to attend the court.

7. It is seen that the learned Trial Court has not considered undertaking given by the petitioner/accused No. 3 in proper prospective. It considered the medical certificate as vague.

8. The learned Advocate for the writ petitioner submits that he will move fresh application accompanied by the undertaking as well as proper medical certificate. If the said application is moved, the learned Trial Court to consider the same in the light of provisions of Section 205 r/w Section 317 of the Cr.P.C., so also the ailment suffered by the petitioner uninfluenced by rejection of earlier application moved by the petitioner.

9. The petition is disposed of in these terms.

(A.M.BADAR J.)