

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO.575 OF 2018**

Nihal Jafarsab Saudagar,  
Age : 45 years, Occ. Service,  
r/o.Walandi, Tq.Deoni,  
Dist. Latur ..Petitioner

Vs.

1. Dnyandeo Raghunath Kamble,  
Age : 38 years, Occ. Service,  
As Peon in Rashtriya Vidyalyaya  
Takli (Walandi),  
r/o. Takli, Tq.Deoni,  
Dist. Latur.
2. The State of Maharashtra,  
Through Police Station,  
Deoni, Tq.Deoni,  
Dist. Latur ..Respondents

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Mr.A.V. Indrale – Patil, Advocate for petitioner

Mr.R.D.Biradar, Advocate for respondent no.1

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**CORAM : SANGITRAO S. PATIL, J.  
DATE : JUNE 22, 2018**

**ORAL JUDGMENT :**

The petitioner has challenged the order dated  
13.04.2018 passed below application (Exh.4) in Criminal

Revision Application No.1 of 2018 by the learned Additional Sessions Judge, Udgir, whereby the stay granted to the proceedings before the trial Court in Summary Trial Case (STC) No.32 of 2014, came to be vacated.

2. Notice was issued to respondent no.1 making it clear that the Writ Petition would be disposed of finally at the stage of admission. Mr.R.D.Biradar, the learned counsel appears for respondent No.1.

3. Rule, returnable forthwith. With consent of the learned Counsel for the petitioner and the learned Counsel for the respondent No.1, heard finally.

4. The petitioner filed S.T.C. No.32 of 2014 against respondent No.1 for the offence under Section 499 punishable under Section 500 of the Indian Penal Code. The learned Trial Judge had treated the evidence of the petitioner as closed. The petitioner moved an application seeking leave to produce further

evidence, but it was rejected. The order of rejection was challenged by the petitioner before the Additional Sessions Judge by filing Criminal Revision Application No.1 of 2018. The learned Additional Sessions Judge granted interim stay to the further proceedings before the Trial Court, which was in force for about four months. However, instead of deciding the Revision Application on merits, the learned Additional Sessions Judge decided the application for interim stay and vacated the interim stay vide the impugned order dated 13.04.2018.

5. The learned Counsel for the petitioner submits that the petitioner was denied the opportunity of producing the evidence by the Trial Court. Therefore, he filed the Criminal Revision Application against the order of the Trial Court. He was hoping for success in the Criminal Revision Application. However, the learned Additional Sessions Judge wrongly rejected the application for stay, though there was stay in existence for about four

months. He submits that the impugned order, which has the effect of denying opportunity to the petitioner to adduce the evidence, would be very prejudicial to him. He, therefore, submits that the impugned order may be set aside and the learned Additional Sessions Judge may be directed to decide the Criminal Revision Application expeditiously, within a specific time limit.

6. The learned Counsel for respondent No.1 opposed the Writ Petition. He submits that it is because of the fault of the petitioner that the Trial Court was required to close the evidence. The petitioner is trying to prolong the trial and harass respondent No.1. He submits that the learned Additional Sessions Judge has rightly rejected the application for stay. He supports the impugned order and prays that the Writ Petition may be dismissed.

7. As seen from the facts of the case, a very short question was posed before the Revisional Court

for being decided, as to whether the petitioner could be given an opportunity to adduce further evidence or not. This question could have been considered immediately after respondent No.1 appeared before the Revisional Court. It seems that the learned Additional Sessions Judge instead of deciding revision application itself granted stay to the further proceedings before the trial Court. That stay remained in force for about four months. In the circumstances, it would have been appropriate on the part of the learned Additional Sessions Judge to finally decide the Revision Application itself instead of deciding the application for stay and passing the impugned order, which runs into three pages. There has been no change in the circumstances after the learned Additional Sessions Judge granted interim stay to the proceedings before the Trial Court. Consequently, it was not expected of the learned Additional Sessions Judge to vacate the interim stay after about four months and then keep

the Criminal Revision Application pending for hearing. If the Trial Court proceeds with the case after vacation of the stay, the Criminal Revision Application would become infructuous. Considering these facts and circumstances of the case, it is necessary to direct the learned Additional Sessions Judge to decide the Criminal Revision Application expeditiously and in any case, within one month from today. The impugned order vacating the interim stay will have to be set aside and the stay will have to be ordered to be continued till the decision of the Criminal Revision Application.

8. In the result, I pass the following order:-

**O R D E R**

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 13.04.2018 passed below application (Exh.4) in Criminal Revision Application No.1 of 2018 by the learned Additional Sessions Judge, Udgir,

is quashed and set aside.

- (iii) The interim stay granted by the learned Additional Sessions Judge shall remain in force till the decision of the Criminal Revision Application No.1 of 2018.
- (iv) The learned Additional Sessions Judge shall decide Criminal Revision Application No.1 of 2018 as expeditiously as possible and in any case, within one month from today.
- (v) The petitioner as well as respondent No.1 shall cooperate with the learned Additional Sessions Judge in deciding the Criminal Revision Application within the given time.
- (vi) The parties shall appear before the learned Additional Sessions Judge, Udgir on 28.06.2018.
- (vii) Rule made absolute in the above terms.

(viii) The Writ Petition is accordingly disposed of.

[ **SANGITRAO S. PATIL, J.** ]

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