

Anand

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

WRIT PETITION NO. 2648 OF 2016

Mrs. Geetha Bhaskaran Pillai

.Petitioner

Vs.

M. N. Nair & anr.

.Respondents

Mr. B. N. J. Pillai, Advocate, for the Petitioner

Mr. V. Chate, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.01.2018

P.C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioner has impugned the Order dated 28.01.2002 issuing process and has sought quashing of proceedings, being R. C. C. No. 19 of 2002 and has prayed that the accused be discharged from the said case.

3. Learned counsel for the Petitioner submitted that the Petitioner has filed an Application under Section 245(2) of the Code of Criminal Procedure (for short “Cr.P.C.”) and has sought dismissal of the complaint with costs, however, till date, the said Application has not been decided by the trial Court. He submitted that the said Application

is pending since 2005 and that the pendency of the said Application and the complaint before the trial Court has caused not only mental agony to the Petitioner, but even tremendous hardships and loss of reputation. He further submitted that the complaint on the face of it, is false and that there was no cause of action that had arisen to file the aforesaid complaint. He further submitted that the complaint has been filed by the Complainant in representative capacity and that the General Power of Attorney is a fabricated document i. e. signature on the said Power of Attorney has been forged.

4. Perused the papers. The Respondent No. 1 filed a complaint as against the Petitioner and others in January, 2002 in the Court of the learned Judicial Magistrate First Class, Kalyan, alleging the offences punishable under Sections 409, 467, 468, 420, 423, 424, 120B r/w 34 of the Indian Penal Code. After recording verification of the Respondent No. 1, process was issued as against the Petitioner and others. The Petitioner appeared before the learned Magistrate and filed an Application under Section 245(2) of Cr.P.C. and prayed that the complaint be dismissed under Section 245(2) of Cr.P.C. with costs, as the complaint was false and vexatious. It is not in dispute that the said Application filed by the Petitioner in May, 2005 has not been decided till date. Learned counsel also relied on certain observations in the

Order dated 23.12.2015 passed by the learned Civil Judge, Junior Division, Kalyan in R. C. S. No. 320 of 1997. A perusal of the papers shows, that the case is being adjourned from time to time i. e. from 2005 to 2016. Considering the fact, that the Application filed under Section 245(2) of Cr.P.C. is pending before the learned Magistrate, it is not necessary to consider the present Petition on merits and instead it would be appropriate to direct the trial Court to expedite the hearing of the Application pending before it.

5. Accordingly, the learned Magistrate seized of the case i. e. R. C. C. No. 19 of 2002 is directed to decide the Application filed by the Petitioner under Section 245(2) of the Cr.P.C. as expeditiously as possible and in any event within eight weeks from the date of receipt of this order.

6. Accordingly, the Petition is disposed of in the aforesaid terms. It is made clear, that this Petition has not been considered on merits. All contentions of all the parties are kept open.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)