

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

CRIMINAL WRIT PETITION NO. 3392 OF 2018

Nasir Latif Shaikh

... Petitioner

Vs.

State of Maharashtra

... Respondent

...

Mr. Ashok Pande for the Petitioner.

Mrs. N.S.Jain, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 8th AUGUST, 2018.

P.C.

1. This petition is filed for challenging the order of issuing of warrant passed by the Court of Metropolitan Magistrate 12th Court, Bandra, Mumbai on 23rd May, 2018 in Criminal Case No. 670/PW/2013. The petitioner is the father of accused No.2 since the accused No.2 against whom the warrant was issued by the trial Court, is abroad, this petition is filed by his father. It is submitted that accused were facing the prosecution for the offences punishable under Sections 323, 506 of Indian Penal Code.

2. On 23rd May, 2018, the trial Court issued warrant against the accused. On the same day, application for cancellation of warrant was moved on behalf of the accused, the trial Court had set aside the order issuing warrant against the said accused, however, the accused No.2 was not present since he is studying in UAE.

Application for cancellation of warrant was, however, preferred on behalf of the accused No.2 on 16th July, 2018. The trial court called for the say of the prosecution. At the instance of the accused No.2, the advocate representing him moved an application for taking the matter on board on 25th July, 2018, however, the application for cancellation of warrant is kept pending and case has been adjourned till 30th August, 2018. It is submitted that the accused No.2 is a student and since he is studying at UAE, he could not remain present before the trial Court. The application for cancellation of warrant can be made even in the absence of the accused as per decision of this Court in Writ Petition No. 4429 of 2013 (Arunkumar N. Chaturvedi Vs. The State of Maharashtra and Anr.).

3. In the circumstances, the trial Court is directed to decide the application for cancellation of warrant which is pending against the accused No.2 on 30th August, 2018. The execution of warrant issued against accused No.2 is stayed till 1st September, 2018.

4. The Writ Petition stands disposed of.

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(PRAKASH D. NAIK, J.)