

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.961 OF 2018

Ramesh Madhukar Modak @ Shree
Shivkrupanand Swamiji

Applicant

versus

The State of Maharashtra

Respondent

Mr.M.S.Mohite I/by Kunal Phoole for applicant.

Ms.R.M.Gadhvi, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th August 2018

PC :

1. The applicant is facing prosecution for the offence u/s 3(1), 3(2), 2, 5 of Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act. The proceedings were pending before the Court of 6th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Pune vide RCC No.6337 of 2017.

2. The applicant was not present before the Trial Court on 18th June 2018. Hence an application for exemption was filed which was rejected by the Trial Court. The warrant was issued against the applicant on the same day. Thereafter the applicant preferred an application for cancellation of warrant. Initially the warrant was stayed till next date of hearing and by order dated 1st August 2018 the application for cancellation of warrant was rejected.

3. In the application for cancellation of warrant it was stated that on account of reasons mentioned therein, the applicant was not in a position to appear before the Court. It was also stated that his application for discharge is pending before the Trial Court. Learned Magistrate rejected the application on the ground that reasons mentioned in the application were not satisfactory.

4. It is pertinent to note that the advocate for applicant had preferred an application for exemption which was rejected. Thereafter the application for cancellation of the warrant preferred by assigning reasons which was also rejected. The applicant had preferred application for discharge which is pending before the Court. The roznama does not indicate that presence of the applicant was necessary for proceeding with the trial. Unless the application for discharge is decided, the Court would not have proceeded further with the trial. Learned APP submits that the Trial Court has rightly rejected the application for cancellation of warrant on account of not pleading satisfactory reasons for his absence. It is also submitted that initially the Magistrate has stayed the warrant but in spite of that, the applicant did not appear before the Court. Learned counsel for applicant, however, submitted that the applicant has a good case on merits and his application for discharge is yet to be decided.

5. Taking into consideration over all circumstances, the warrant issued by the Trial Court can be cancelled. The applicant shall appear before the Magistrate as and when directed by the learned Magistrate. Hence, I pass following order :

ORDER

(i) The impugned order dated 1st August 2018 passed by 6th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Pune rejecting the application for cancellation of warrant and order dated 18th June 2018 issuing non-bailable warrant is set aside;

(ii) The applicant shall appear before the Trial Court as and when directed by the Trial Court.

(PRAKASH D. NAIK, J.)

MST