

Sequeira

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

WRIT PETITION No. 3509 of 2017

Ahmed Ebrahim Bharucha

... Petitioner

Vs

The State of Maharashtra and another

... Respondents

Mr.G.R.Dalvi, for Petitioner in W.P No.3509 of 2017.

Mr.S.R.Shinde, APP, for Respondent-State.

Mr.Sandesh Pawar – I.O.

with

WRIT PETITION No. 1511 of 2017

***CORAM : B. P. DHARMADHIKARI &
SARANG V. KOTWAL, JJ.***

Date : 19th December, 2018.

P.C. :

Only contention of learned counsel is in Chapter proceedings initiated on 19 January 2017, the order directing Petitioner to furnish bond has been passed on 16 August 2017 i.e. beyond period of six months. The Petitioner points out from order sheet that first date of appearance in the matter was 20 January 2017 and Petitioner has on 20 July 2017 pressed into service provisions of Section 116(6) of Code of Criminal Procedure for disposal of proceedings, as infructuous.

2. Learned APP is relying upon very same order sheet to show that Petitioner himself has obtained several adjournments and thereby rendered passing of order, within six months impossible.

3. We have perused order sheet. 20 January 2017 was the first date on which Petitioner was supposed to appear. Matter was then adjourned to 2 February 2017. On both these dates Petitioner was absent. He has appeared on 6 February 2017. Thus 6 February 2017 appears to be his first date of appearance in the matter. Even if we calculate period of six months from said date, the period expires on 6 August 2017. Petitioner has raised an objection in writing and pointed out provisions of Section 116 (6) of Cr.P.C on 20 July 2017. The concerned authority therefore, could have passed orders within six months of first appearance of Petitioner, that also has not been done.

4. Our observation *supra* is without prejudice to contention of Petitioner that 20 January 2017 has to be treated as first date of appearance.

5. In this situation we find impugned order unsuspendable, it is accordingly quashed and set aside.

(Sarang V.Kotwal, J.)

(B.P.Dharmadhikari, J.)