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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4271 OF 2015

Rajendra Kalicharan Verma	..Petitioner.
V/s.	
State of Maharashtra & Ors.	..Respondents.

Mr.Rajendra K.Verma – the petitioner in person.

Mr.H.J.Dedhia, APP for the respondent-State.

Mr.Sanjiv Sawant for respondent No.1.

CORAM: NITIN W.SAMBRE, J.

DATE : MARCH 20, 2018

PC.:-

Mr.Verma, a lawyer by profession, appears in person.

He is heard at length.

2. Out of an contractual obligation, the petitioner filed a complaint case being R.C.C. No.575/2011 before the learned Judicial Magistrate First Class, Pimpri, Pune. Since the petitioner-complainant in his handwriting informed the Court that he does not wish to press the said complaint, the learned Magistrate

pursuant to the provisions of section 203 of the Code of Criminal Procedure dismissed the complaint vide order dated November 7, 2012.

3. Against the order of dismissal of the complaint that was passed on the request made by the petitioner, the petitioner preferred Criminal Miscellaneous Application No.222/2014 along with the revision questioning the said order of dismissal of the complaint. The said miscellaneous criminal application came be dismissed by the learned Additional Sessions Judge, Pune, having noticed that the revision was delayed by about 535 days and the delay is not explained. Apart from above, the learned Additional Sessions Judge has proceeded to observe that it is the complainant who has not pressed the complaint which has prompted the Magistrate to pass the order. The order passed by the learned Additional Sessions is questioned in the writ petition.

4. The petitioner would urge that the delay in passing an order on his complaint case has resulted into a frustrated act on his part in not pressing the complaint. According to him, it is always open for the petitioner to renew his request to prosecute

the complaint and as such, he moved the learned Additional Sessions Judge. Moreover, drawing support from the judgment from the judgment of the Apex court in the matter of *Sundeeep Kumar Bafna V/s. State of Maharashtra & Anr. [Criminal Appeal No.689 of 2014]* delivered on March 27, 2014, he would urge that it is always open for the petitioner to renew the same proceedings which are not pressed and dismissed. In addition, Mr.Verma would urge that looking to the nature of dispute, it is the respondents who are at fault and as such, equity can be worked out in his favour by quashing both the orders rejecting the request of pursuing the complaint case.

5. *Per contra*, the learned counsel for respondent-State would support the order impugned in the revision. According to him, it is the petitioner-complainant who has invited the order of dismissal of his complaint. Once the complaint is dismissed, there is no provision under the Code of Criminal Procedure to either restore the same or renew such request before the same Court. He would try to distinguish the judgment in the matter of *Sundeeep Kumar Bafna (cited supra)* and submits that the consideration while dealing with a bail application and that of the complaint

case is altogether different under the Code of Criminal Procedure. According to him, the delay caused while preferring the revision before the Additional Sessions Judge is also not explained. As such, sought dismissal of the petition.

6. So far as the claim of the petitioner that he has every right and liberty to renew his complaint pursuant to the judgment of the Apex Court in *Sundeeep Kumar Bafna (cited supra)* is concerned, it is required to be noted that dismissal of the complaint preferred by the present petitioner on his request is an order which is final in nature, whereas the prayer for bail is an issue which is considered at an inter-locutory stage of the trial. Subsequent developments in bail proceedings, permits such applicant to apply afresh for grant of bail as it is a question of liberty and fundamental right of an accused. Whereas, in the case in hand, the proceedings under section 200 of the Code of Criminal Procedure cannot be treated at par with that of jurisdiction in which bail application can be dealt with.

7. It is also important to be noted that the petitioner who is the complainant before the Magistrate has invited the order of

dismissal of the complaint of which he sought setting aside in the revision. If such prayer of the petitioner is allowed, it will virtually amount to permitting the petitioner withdrawing consent given in his own handwriting before the Magistrate which is not permissible within the purview of the Code of Criminal Procedure.

8. Apart from the above, the learned Additional Sessions Judge has rightly observed that the delay of more than 500 days is also not explained by the petitioner.

9. No interference under the extra-ordinary jurisdiction is warranted in the light of the above referred observations. The petition fails and is dismissed.

(NITIN W.SAMBRE, J.)