

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.412/2018

Ranjeet S/o Arvind Khadakkar

..Vs..

State of Maharashtra, through Police Station Officer, Police Station, Gondia

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for the petitioner.
Ms. S.V. Kolhe, A.P.P. for the respondent.

CORAM : Z.A. HAQ, J.

DATE : 21.8.2018.

1. The original accused has approached this Court invoking jurisdiction of this Court under Articles 226 and 227 of the Constitution of India praying that the judgment passed by the Sessions Court by which the revision application filed by the accused is dismissed, be set aside.

2. The accused is being prosecuted for offence punishable under Sections 304-A and 338 read with Section 34 of the Indian Penal Code. The accused had filed an application (Exh. No.10) before the learned Magistrate praying that he be discharged and the prosecution against him be dismissed. The learned Magistrate rejected this application by order dated 8th March, 2013. This order was challenged by the accused before the Sessions Court in Criminal Revision No.26/2013 which is dismissed on 18th June, 2013.

The petitioner had filed Criminal Application

No.450/2013 before this Court under Section 482 of the Criminal Procedure Code. In paragraph No.5 of the petition, it is stated that this application filed under Section 482 of the Criminal Procedure Code was withdrawn on 3rd September, 2013 with liberty to file petition. This writ petition is filed on 25th April, 2018. The delay and laches on the part of the petitioner in filing writ petition are explained in paragraph No.6 of the petition. According to the petitioner, after the withdrawal of the Criminal Application No.450/2013 he waited with the hope that the trial would commence and would be concluded within short time. Apart from the fact that the explanation given by the petitioner is not sufficient, additional factor for rejecting the explanation is that the petitioner has neither pleaded nor has pointed out that he requested the learned Magistrate to expedite the trial.

3. Though the learned Advocate for the petitioner insisted for considering merits of the matter, as I am of the view that the petitioner has not approached this Court with clean hands, I am not inclined to consider the merits of the matter and the writ petition is **dismissed** on the ground of unexplained delay and laches.

The petitioner shall pay costs of Rs.10,000/- (Rs. Ten Thousand) to the State of Maharashtra and deposit further amount of Rs.30,000/- (Rs. Thirty Thousand) before the trial Court. The petitioner shall

produce the receipt of the payments within one month before the trial Court. The amount of Rs.30,000/- (Rs. Thirty Thousand), which will be deposited by the petitioner, shall be transferred to the fund of the State Government under Section 357A of the Code of Criminal Procedure. It is clarified that this amount of Rs.30,000/- (Rs. Thirty Thousand) is not meant to be utilized by the learned Magistrate in the present case.

JUDGE

Tambaskar.