

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

**CRIMINAL APPLICATION NO. 3 OF 2018
IN
CRIMINAL PUBLIC INTEREST LITIGATION NO. 19 OF 2010**

Namdev Wagh	}	Applicant
versus		
The State of Maharashtra	}	
and Anr.	}	Respondents

Mr.Namdeo Wagh-petitioner-in-person.

Ms.P.P.Shinde-APP for State.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

DATED :- JULY 5, 2019

P.C. :-

1. This criminal application has been filed by one Namdev Wagh, who is present in court. The applicant says that he is filing this application in-person. He says that earlier an application was filed being Criminal Application No.53 of 2016 for considering an affidavit filed on 29th January, 2015 in this court as per the order of 12th January, 2015. That affidavit has been taken on record on 9th February, 2018 and copy of which is at Exhibit 'A' to the present application.

2. Criminal Public Interest Litigation (PIL) 19 of 2010 was disposed of on 27th September, 2010 by an order, copy of which is at Exhibit 'D'. There are now changed circumstances and the facts, which were not before this court at the time of the order of 27th September, 2010, are vital and they should be brought before this court. On account of the same, this court should recall the order passed on 27th September, 2010. It is stated that this application is filed very expeditiously.

3. We have heard the applicant in-person. The applicant had moved the earlier criminal application. He wanted to amend the Criminal PIL. The criminal application was on board, but that sought relief to tender an affidavit. That affidavit was sought to be filed on 12th January, 2015 in the Criminal PIL. It is the case of the applicant that the order passed by this court directs him to file a reply.

4. We have noticed that this applicant had moved this Criminal PIL in which this court was apprised of a criminal complaint filed in Bhagyanagar Police Station, Nanded. On that basis (C.R.No.364 of 2007), investigations were carried out and a charge-sheet was filed in the competent criminal court alleging offences punishable under section 465, 471 and 34 of the Indian Penal Code, 1860. A supplementary statement of the applicant

was also recorded. Thereafter, the further statement was also recorded. The charge-sheet was filed on 18th July, 2008. An intimation was also given to the petitioner with regard to filing of the charge-sheet. The Investigating Officer recorded his two further/ additional statements and forwarded a report under section 173(8) of the Criminal Procedure Code, 1973. The charge has also been framed. The charge was framed on 30th March, 2010.

5. This court, therefore, came to the conclusion that the petitioner's complaint was registered, investigated into and now, the matter is pending for trial before the competent criminal court. It is in these circumstances that the court decided to dispose of the PIL. This court was satisfied that no wider public interest being involved and the necessary steps being taken, the PIL need not be kept pending.

6. The applicant has moved the subsequent application and seeks to file documents and affidavit, but we do not think that in a disposed of PIL, such affidavit and documents can be taken on record. The applicant is not remedyless in the event the criminal trial has resulted in acquittal or that the criminal trial is not progressing. If he has material in his possession, he can, during the course of recording evidence before the trial court, request

the prosecution machinery to allow him to tender it. We do not think that this criminal application should be kept pending. It is disposed of.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)