

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1759 OF 2019

WITH

CRIMINAL WRIT PETITION NO. 1761 OF 2019

Vinayak Madhukar Hogade

..... Petitioner.

VERSUS

Sarojdevi Harikishan Daga & Ors.

..... Respondents

Mr. Vinod P. Sangvikar for petitioner.

Mrs. M.R. Tidke, APP for State.

CORAM : S. S. SHINDE J.

DATED : 10th June, 2019.

P.C.

1. Heard learned counsel appearing for petitioner. Learned counsel appearing for petitioner invites attention of this Court to the grounds taken in the petition and submits that in the interest of justice application filed by the petitioner for recalling the order of no cross dated 15.12.2018 may be allowed. It is submitted that since there was talks of settlement between the petitioner and respondents the advocate for the petitioner could not cross examine the petitioner.

2. Upon careful perusal of documents placed on record it appears that, on 16th August 2018 an application filed by the petitioner for adjournment was rejected and no cross examination

was passed by the concerned Court. However, petitioner filed an application on 6th September 2018, and said application was allowed by the Trial Court and the order dated 16th August 2018 was recalled. However, thereafter also the petitioner sought adjournment on the ground that his advocate is out of station. It appears that proceedings are pending for more than two years, and Trial Court in the impugned order has made reference to the judgment of Hon'ble Supreme Court in case of **Indian Bank Association Vs. Union of India 2014 (5) SCC 590**. The order dated 15.12.2018 is well reasoned order and has made a reference to the reasons assigned in the earlier order dated 15.12.2018. It would be apt to reproduce herein below clause 3 of the order dated 15.12.2018, which reads as follows:-

3) “On 24/07/2018 proceeding has been adjourned on the ground of settlement. On 16/08/2018 application of accused for adjournment has been rejected and no cross order has been passed against him. On 06/09/2018, accused moved an application to set aside the no cross order. Considering the difficulty of accused

no cross order passed against him has been set aside on 19/10/2018. On last date due to heavy work load, proceeding could not be conducted. But today also again accused prayed for adjournment. The reason shown that his counsel is out of station is not definitely sufficient. Proceeding is 2 years old, Complainant is regularly attending the Court. Legislative intention behind provision of the N.IK. Act to dispose these proceedings within stipulated period.”

3. In that view of the matter and reasons assigned in the aforesaid clause 3 of the order of the Trial Court, no case is made out to grant relief, hence petition stands rejected.

[S.S. SHINDE, J.]