

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1228 OF 2019

M/s Jet Sonic Audio

.....Applicant

Versus

The State of Maharashtra & Ors.

.....Respondents

Mr. S.D. Mogre a/w. D.M. Galani, Advocate for the Applicant.

Mr. Arfan Sait, APP for Respondent-State.

CORAM : SURENDRA P. TAVADE, JJ.

DATE : 13th DECEMBER, 2019.

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P. C. :

1. Heard the learned counsel for the applicant. None appears for respondent Nos.2 to 4. Learned counsel for the applicant has taken me through the order dated 13th October 2015 passed by this Court by which the Trial Court was directed to expedite the hearing of Criminal Case No.23/SS/2003. On six occasions time was granted to the Trial Court to conclude the trial but unfortunately, as respondent No.4 is not appearing before the Trial Court, trial could not be completed. Non bailable warrant was issued against respondent No.4 but it was submitted that as she resides at Canada, warrant could not be executed. The applicant has filed application for impounding of passport of respondent No.4. the said application was casually rejected by the Trial Court. The applicant has submitted the application for review of the said order, but the said application was also rejected. Hence, the applicant has filed application at Exhibit-74 contending

that the order passed on Exhibit-70 was not proper and as per the facts on record of the case. Trial Court has passed a plain order at Exhibit-74 wherein it is specifically mentioned that she passed order inadvertently. Though say was not filed, Advocate for the petitioner was not heard and inspite of that, application came to be rejected. The learned Magistrate has shown reluctantness to change the order on the ground that she has no power to change the order. The fact remains that the order passed on Exhibit-70 was not proper and legal. The Advocate was not heard and any factual aspects of the matter was not considered by the Trial Court which needs to be corrected.

2. Admittedly, Non Bailable Warrant was pending against respondent No.4. She is not residing in India. She holds passport of India. To secure her presence in the Court, it is required to impound her passport. The learned Magistrate ought to have allowed the application on technical ground.

3. I am of the opinion that criminal application deserves to be allowed and same is allowed. In view of disposal of the criminal Application, Interim Application No.1 of 2019 does not survive and the same is disposed of.

4. It is directed that the Passport of respondent No.4 be impounded with intimation of the same to the Passport Authorities immediately.

[SURENDRA P. TAVADE, J.]