

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4229 OF 2018

D.L. Sadhashiva Reddy S/o.
Late Lakshmana Reddy ...Petitioner
Versus
Taucan Agro and Developers
Private Ltd. & Anr. ...Respondents

WITH
CRIMINAL WRIT PETITION NO. 4230 OF 2018

Smt. E. Nagarathnama W/o.
Late K. Balkrishna Reddy ...Petitioner
Versus
Taucan Agro and Developers
Private Ltd. & Anr. ...Respondents

WITH
CRIMINAL WRIT PETITION NO. 4231 OF 2018

D.L. Sadhashiva Reddy S/o.
Late Lakshmana Reddy ...Petitioner
Versus
Taucan Agro and Developers
Private Ltd. & Anr. ...Respondents

WITH
CRIMINAL WRIT PETITION NO. 4232 OF 2018

Smt. E. Nagarathnama W/o.
Late K. Balkrishna Reddy ...Petitioner
Versus
Taucan Agro and Developers
Private Ltd. & Anr. ...Respondents

...

Mr. Dushyant Pagare for Petitioner.
Mr. Rajender Singh Saluja for Respondent No. 1.
Mr. A.R. Patil, APP for Respondent-State.

CORAM : S. S. SHINDE, J
DATE : 23rd August 2019

P.C.

1. Heard learned counsel appearing for the Petitioner. He submits that, the order impugned in these petitions passed on 19th July 2018 is not legally sustainable. He further submits that, on 28th August 2018, the matter was fixed for recording evidence of the Petitioner. However, he could not remain present and application was filed for adjournment. It is submitted that, even statement of the Petitioner under Section 313 Code of Criminal Procedure is not recorded. Therefore, learned counsel appearing for the Petitioner relying upon pleadings and grounds taken in the petitioner, annexures thereto, submits that, in the interest of justice one more opportunity may be given to the Petitioner, so as to make himself available for recording evidence and for recording statement under Section 313 of Cr.P.C.

2. On the other hand, learned counsel appearing for the contesting Respondent submits that, the order passed by the Trial Court on 19th July 2018 makes it explicitly clear that, language of Section 145 of Negotiable Instruments Act is about recording of evidence of the complainant and therefore, application filed by the Petitioner taking recourse to Section 145 of the Negotiable Instruments Act was misdirected and therefore, the Trial Court has rightly passed the said order. It is further submitted that, the proceedings are pending from the year 2012 and an attempt is being made by the Petitioner to prolong the said proceedings. Learned counsel appearing for contesting

Bhagyawant

Respondent submits that, as a matter of fact statement of all the petitioners under Section 313 of Cr.P.C. is recorded.

3. Upon hearing learned counsel appearing for the Petitioner and learned counsel appearing for the Respondent and the fact that on 28th August 2018, the petitioners were not present for recording the evidence. Therefore the learned Magistrate was perfectly justified in closing evidence. Therefore, I do not see any reason to interfere in the impugned order. So far as order passed by the Trial Court on 19th July 2018 is concerned i.e. keeping in view the provisions of Section 145 of the Negotiable Instruments Act, the Trial Court has passed the order on 19th July 2018. Said order is self speaking and there is no reason to cause interference in the said order and entertain these petitions. The Trial Court is obliged to follow the mandate of Section 143 of the Negotiable Instruments Act, and decide the proceedings at the earliest. The said provision mandates that, from the institution of the complaint, same should be decided within six months. The Supreme Court in the case of **Indian Bank Association & Ors. Vs. Union of India & Anr** has taken a view that from assigning the case, recording of evidence should be completed in three months. In that view of the matter, no case is made out to cause an interference in the impugned order. Hence, all the petitions stand rejected.

4. At this stage, learned counsel appearing for the Petitioner prays

for continuation of ad-interim relief which is in force till date. The prayer is vehemently opposed by the learned counsel appearing for the contesting Respondent. Since the proceedings are pending from the year 2012 before the Trial Court, it is not desirable to continue the ad-interim relief . Hence prayer made by the learned counsel appearing for the petitioner for continuation of ad-interim relief stands rejected.

[S. S. SHINDE , J]