

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5560 OF 2018**

Arthur Patrick Casserly	...Petitioner
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL WRIT PETITION NO. 3910 OF 2017**

Arthur Patrick Casserly	...Petitioner
Versus	
The State of Maharashtra & Anr.	...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 3911 OF 2017**

Arthur Patrick Casserly	...Petitioner
Versus	
The State of Maharashtra & Anr.	...Respondents

Ms. Kranti S. S. Anand a/w Mr. Mohan Waghmare for the Petitioner

Mr. A D. Kamkhedkar, A.P.P for the Respondent-State

Ms. S. V. Bharucha for the Respondent No. 2 in WP/3910/2017

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
WEDNESDAY, 20th FEBRUARY 2019**

P.C. :

1 Petitioner claims that he was invited to India and joined the employment, on understanding that he will be responsible only for Mumbai and Delhi office. He himself was/is employee and his dues

like Provident Fund, LIC premium all got delayed. The company could not pay the amount within time and as petitioner- a law abiding person is available in India, the prosecution has been launched against him.

2 Learned counsel also adds that responsible Directors of the Company have already left Country and extradition exercise to bring them back is going on.

3 Learned counsel appearing for Provident Fund Department in Writ Petition No. 3910 of 2017 submits that as Company has declared petitioner as an employer, petitioner cannot disown his responsibility and law permits his prosecution also.

4 The facts are not in dispute. Only effort of petitioner is to show that he was not in a position to command, control and arrange finances. The delayed compliance, therefore, should not result in his prosecution. His Visa is being extended from time to time because of these prosecutions and last such extension is now to end in May 2019.

5 Petitioner has not invited our attention to any policy decisions or precedents, which would demonstrate that merely for delayed payment or compliance, prosecution could not have been launched.

6 We, however, keep his contentions open. We are willing to grant him an opportunity to make appropriate representation to the Competent Authorities with concerned respondents within two weeks, pointing out necessary policy decisions and precedents, if any. If such representation is made by him within two weeks, the concerned parties shall take decision upon it as per law within next six weeks.

7 If necessary, opportunity of hearing shall be given to the petitioner.

8 With these directions and keeping all contentions open, we dispose of the petitions.

9 At this stage, our attention is invited to fact that though Writ Petition No. 3911 of 2017 is clubbed with present matters, there, employee of company of petitioner only has filed an FIR with police.

10 In this situation, we are not inclined to intervene in extraordinary jurisdiction. That writ petition being Writ Petition No. 3911 of 2017 is dismissed.

REVATI MOHITE DERE, J.

B. P. DHARMADHIKARI, J.