

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 494/2019

Kamlakant S. Dwivedi & anr.

..VS..

State & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S. Paunikar, Advocate for the petitioner(s)
Shri T.A. Mirza, APP for the respondent/State
Shri S.P. Bhandarkar, Advocate for the respondent no. 7

CORAM : Z.A.HAQ & PUSHPA V. GANEDIWALA, JJ.
DATED : 23/09/2019

Shri T.A. Mirza, learned APP for the respondent/State and Shri S.P. Bhandarkar, Advocate appearing for the respondent no. 7 state that Hemant Sikandar Jham, Managing Director of the respondent no. 6 – M/s. Jham Builders & Developers Private Limited is arrested and is in jail, and therefore grievance of the petitioners as made in this petition does not survive.

The learned advocate for the petitioner further makes grievance that Hemant Sikandar Jham is not being produced before the Consumer Forum inspite of issuance of non-bailable warrant against him. As Hemant Sikandar Jham is in jail, in our view, it would not be difficult to produce him before the Consumer Forum whenever order to that effect is passed by the Forum.

With the above observations, the writ petition is
disposed.

We find that the petitioner has pleaded in details that inspite of the fact that Hemant Sikandar Jham was in Nagpur, the respondent nos. 3 and 4 failed to arrest him. In the reply filed by the respondent no. 2, it is not explained why Hemant Sikandar Jham was not arrested and not produced before the Consumer Forum when non-bailable warrant was issued. We find that the petitioner is required to approach this Court under Article 226 of the Constitution of India in such trivial matter and it is only because of the complete inaction on the part of the police machinery concerned.

Hence, we direct the respondent no. 1 – State to pay Rs. 10,000/- to the petitioners towards costs of this petition. The amount of costs shall be deposited before the Consumer Forum in the proceedings i.e. E.A./156/2016 till 25/11/2019. We further direct the respondent no. 2 – Commissioner of Police, City of Nagpur to cause an enquiry in the matter and recover the amount of costs from the erring police officers and note of it should be taken in the service books of the concerned police officers.

CRIMINAL APPLICATION (APPW) NO. 223/2019

In view of the disposal of the writ petition, this application praying for grant of permission to file additional documents does not survive. It is **disposed** accordingly.

JUDGE

JUDGE