

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.46 OF 2020

Dinesh Seetaram Shetty ... **Petitioner**
Versus
The State of Maharashtra ... **Respondent**

.....

Mr.Arjun S. Kode, Advocate for the Petitioner.

Mr.S.V.Gavand, the Additional Public Prosecutor for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 20th JANUARY 2020.

P.C. :

1 Heard the learned Counsel appearing for the petitioner/convicted accused.

2 By this petition, the petitioner is challenging the Judgment and Order dated 29/11/2002 whereby he was convicted by the learned Additional Chief Metropolitan Magistrate 3rd Court, Esplanade, Mumbai for the offences punishable under Sections 386 and 387 read with Section 34 of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for one year apart from direction to pay fine of Rs.5,000/- and in default to undergo

further rigorous imprisonment for three months on each count. The petitioner is also praying for quashing and setting aside the Judgment and Order dated 23/09/2003 passed by the learned Additional Sessions Judge thereby confirming the Judgment and Order convicting the petitioner and sentencing him accordingly. He is further praying that the petitioner be heard on merits regarding the conviction and sentence recorded against him by the Courts below and during pendency of this petition, he be released on bail.

3 I heard the learned Counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the State.

4 Undisputedly, the Judgment and Order of the learned Appellate Court confirming the conviction and sentence imposed on the petitioner came to be challenged by the petitioner before this Court by filing Revision Petition bearing No.493 of 2003 and that Revision Petition came to be dismissed on 23/04/2008 for want of prosecution. The petitioner/convicted accused then applied for restoration of the Revision Petition bearing No.493 of 2003 by filing an application for condonation of delay being No.107 of 2012 apart from application for restoration of the Revision Petition which came to be numbered as 108 of 2012. Both these applications viz. Application for condonation of delay and application for restoration came to be dismissed for want of

prosecution by this Court on 22nd August 2012 and 11th September 2012. Thereafter, the petitioner/convicted accused moved an application for restoration of these applications and that application bearing No.343 of 2012 came to be rejected on merit vide Order dated 15th October 2012 by this Court. The petitioner then approached the Honourable Apex Court feeling aggrieved by Order dated 15/10/2012 passed by this Court in Criminal Application No.343 of 2012 arising out of Criminal Revision Application 493 of 2003. In that Special Leave Petition, the delay came to be condoned, but the Honourable Apex Court dismissed that Special Leave Petition on 10/02/2014.

5 The learned Counsel for the petitioner/ convicted accused sought to argue that the Revision Petition cannot be dismissed for want of prosecution. The petition cannot be heard on this aspect particularly when he has raised same ground before the Honourable Apex Court and that ground did not find favour with the Honourable Apex Court as the Special Leave Petition filed by him came to be rejected on 10/02/2014.

6 In this view of the matter, no interference is called for in the instant petition. The same is, therefore, dismissed.

(A.M.BADAR, J.)

Raju D.
Gaikwad

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by Raju D.
Gaikwad
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