

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3590 OF 2019

Sabu Varghese

..Petitioner

Versus

The State of Maharashtra

..Respondent

Mr. K. S. Sanjeev Kumar for Petitioner.

Mr. K. V. Saste, APP for State/Respondent.

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.
DATE : 28 OCTOBER 2021**

P.C. :

1. This Writ Petition is filed under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure seeking to quash the proceeding pursuant to Criminal Case No. 229/PW1/2004 pending before the Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai (47th Court).

2. The F.I.R. was lodged against the Petitioner and others at the instance of Economic Offence Wing stating that the Petitioner and others had floated a company and a scheme to defraud various persons. The charge-sheet was filed on 30 July 2004. The Petitioner had applied for discharge before the learned Magistrate. That was rejected. Thereafter, Criminal Revision Application No. 644 of 2011

before the Additional Sessions Judge was filed which was also dismissed. Thereafter, Criminal Writ Petition No. 1306 of 2012 was filed by the Petitioner before the learned single Judge of this court. The learned single Judge after considering the case and the impugned orders before him, found that there was sufficient material to proceed against the Petitioner and no case was made out under section 482 of the Code of Criminal Procedure and rejected the Petition.

3. We note that the Petitioner invoked the powers of this court under section 482 of the Code of Criminal Procedure before the learned single Judge and the Petition was rejected. Once the same was rejected by the learned single Judge, who had jurisdiction at that time to exercise powers under section 482 of the Code of Criminal Procedure, it is not possible for us to again consider whether the proceedings should be quashed, merely on the ground that the trial is still pending. The powers under section 482 of the Code of Criminal Procedure and under Article 226 of the Constitution of India cannot be exercised merely on the ground of delay in the trial in this case. As we are informed that there are 142 witnesses, which indicates complexity of the matter. Therefore, no case is made out for exercising writ jurisdiction and inherent powers of this court.

4. The Writ Petition is accordingly rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)