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

**PUBLIC INTEREST LITIGATION NO. 15 OF 2020
WITH
INTERIM APPLICATION NO. 2250 OF 2020**

Omprakash Bhaurao Kamdi & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

None for the petitioners.

Mr. P. P. Kakade, Govt. Pleader a/w Mr. M. M. Pabale, AGP for State in PIL/15/2020.

Mr. Pralhad D. Paranjape for respondent no.5.

Mr. A. R. Patil, Addl. P.P. for State in connected Cri.Applications.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: JUNE 27, 2022

PC:

1. A coordinate Bench of this Court (cor. Sunil B. Shukre and Rohit B. Deo, JJ.) at Nagpur had the occasion to consider Public Interest Litigation No. 58 of 2019. On 7th November 2019, the Bench refrained from assigning fresh reasons for the ultimate order considering the fact that such reasons had been assigned in its previous order dated 4th October 2019. The said order dated 4th October 2019 had taken note of earlier orders dated 23rd December 2014, 6th April 2018 and 6th March 2019 passed by coordinate Benches, which had the

occasion to consider the public interest litigation. Finally, it was directed in paragraphs 4 and 5 as follows: -

“4. Coming to the main issue of expeditious conclusion of the trial, we find that now the only option remaining in our hands is to make a Court at Nagpur to be dedicated Court for expeditious disposal. The reasons for the expeditious disposal of the case are already recorded by us in detail in our order passed on 4.10.2019. Therefore, we would save ourselves from the repetition of the reasons in this order.

5. On setting up of dedicated Court, we have held discussion with the learned Sessions Judge, Nagpur in the matter. He has suggested 3-4 names of the judicial officers who could be considered for the purpose. Amongst them, we find that Court of Additional Chief Judicial Magistrate presently presided over by Shri S. R. Totla would be suitable. Accordingly, we issue following directions:

i) We direct the Court of Joint Civil Judge (Senior Division) and Additional Chief Judicial Magistrate, Nagpur presided over by Shri S. R. Totla be made as a dedicated Court for trying the Criminal Case 147 of 2002 (Crime No. 101/2002 registered with Police Station Ganeshpeth, Nagpur) and concluding the trial in accordance with law as expeditiously as possible and for this purpose, the Criminal Case No. 147/2002 be transferred and made over to his Court.

ii) we also direct that all other cases assigned to this Court whether Civil or Criminal, except those cases which are required to be assigned to the Court presided over by Shri S. R. Totla under any special law or notification of the State Government or the High Court, shall be withdrawn by the Principal District & Sessions Judge, Nagpur, with immediate effect.

iii) We further direct that relaxation in application of disposal norms be given to the said Court during

the period from which this Court is turned into a dedicated Court till the final conclusion of the trial of case No. 147 of 2002.

iv) We further direct that on the next date which has been reported to be 11.11.2019, the dedicated Court shall make its endeavour to frame charge against the accused in accordance with law and in case it is not possible for it to frame the charge on 11.11.2019, the case shall be adjourned by not more than three days and that in that case it shall be ensured by the dedicated Court that at least on the adjourned date, the charge is framed against the accused persons in accordance with law.

v) We further direct that after the adjourned date, the case shall be posted for recording of evidence on 2.12.2019 and from that date onwards, we also direct that the trial shall be held on day to day basis and shall be completed within a period of three months.

vi) We further direct that Presiding Officer of the dedicated Court shall submit his report about the progress of the case periodically, at the interval of every 15 days, hereinafter."

2. Public Interest Litigation No. 15 of 2020 together with other connected matters, which included criminal applications and interim applications, stands disposed of finally by a judgment and order dated 9th July 2021 passed by another coordinate Bench of this Court [cor. A. A. Sayed (as His Lordship then was) and Madhav J. Jamdar, JJ.].

3. At this stage, the Principal District and Sessions Judge, Nagpur by his letter dated 5th May 2022 (in pursuance of letter dated 29th April 2022 of the 2nd Addl. Chief Judicial Magistrate, Nagpur) informed the Registrar (Judicial-I) at the

Principal Seat of this Court that Regular Criminal Case No. 147/2002 has been stayed by an order of the Supreme Court dated 5th October 2021 in Transfer Petition(s) (Criminal) No(s). 333-348 of 2021 [**Ketan Kantilal Shah vs. State of Gujarat and Ors.**]. In view of such order of the Supreme Court staying proceedings of the criminal case, the learned Judge who in terms of the order dated 7th November 2019 was required to function as a dedicated Court, is presently without work. Accordingly, a request is made for assigning him judicial work till the stay in the criminal case subsists.

4. We have considered the materials on record.

5. A judicial officer cannot be left without any work. Accordingly, we direct that the order dated 7th November 2019 [to the extent it directs the Court of Joint Civil Judge (Senior Division) and Additional Chief Judicial Magistrate, Nagpur (presided over by Shri S. R. Totla) would function as a dedicated Court for trying Criminal Case No. 147/2002, arising out of Crime No. 101/2002 registered with Police Station Ganeshpeth, Nagpur] shall remain stayed till such time the Supreme Court finally disposes of the transfer petitions. The Principal District and Sessions Judge, Nagpur is permitted to assign other judicial work to Shri S. R. Totla, the presiding officer of the Court of the Joint Civil Judge (Senior Division) and Additional Chief Judicial Magistrate, Nagpur, immediately.

6. After the aforesaid order has been dictated, Mr. Paranjape, learned advocate appearing for respondent no. 5 (Sunil s/o Chhatrapal Kedar) has placed before us an order

dated 13th May 2022 passed by the Supreme Court in **Ketan Kantilal Shah** (supra). We have read the order. It records the submissions of the parties that evidence in the criminal case has been completely recorded and final arguments on the side of the prosecution have also been completed. In such view of the matter, the Supreme Court modified its earlier order dated 5th October 2021 and permitted the trial Court to complete the hearing of arguments; however, the trial Court has been restrained from delivering its judgment.

7. Having regard to such order of the Supreme Court, we also direct that while the trial Court is assigned with other judicial work by the Principal District and Sessions Judge, Nagpur, the order dated 13th May 2022 shall be brought to the notice of the trial Court and the trial Court may accordingly proceed to hear the arguments on the side of the defence on date(s) convenient to it but may not deliver the judgment unless the Supreme Court permits it to so deliver.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
PRAVIN
DASHARATH
PANDIT
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