

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

CRIMINAL APPEAL NO. 511 OF 2020

(STATE OF MAHARASHTRA, THR. PS AKOT...VS. IMRAN KHAN AKBAR KHAN & 2 OTH.)

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

Court's or Judge's orders

Shri T.A.Mirza, A.P.P. for Appellant/State.
Shri S. Zia Quazi, Advocate for Respondent Nos.1 & 2-accused.

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : JANUARY 04, 2021.

Heard Shri T.A.Mirza, learned A.P.P. for the appellant-State and Shri S.Z.Quazi, learned Advocate for the respondent Nos. 1 and 2-accused. None for the respondent No.3, though served.

2. At the time of hearing Criminal Appeal No. 380 of 2019 under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 filed by co-accused, reliance was placed on the order passed by the Sessions Court in Misc. Criminal Application No. 49 of 2019 directing release of the present respondent Nos.1 and 2-accused on bail. Criminal Appeal No. 380 of 2019 filed by the co-accused was disposed as withdrawn by order dated 3rd October 2019. While disposing Criminal Appeal No. 380 of 2019, this Court expressed anguish because of the failure of the appellant-State to file appeal under Section 14-A of the Act of 1989 to challenge the order dated 5th April 2019 by which it was directed to release the co-accused on bail. Then the Investigating Agency came out of its slumber and have filed this appeal to challenge the order dated 5th April 2019. The appeal came to be filed on 4th December 2019. The

docket shows that the appellant-State (Investigating Agency) has not been vigilant in prosecuting this appeal also. Because of the lapse on the part of the Investigating Agency in not challenging the order dated 5th April 2019 immediately and then not prosecuting this appeal diligently, the period of 21 months has lapsed and the respondent Nos.1 and 2-accused are on bail. It is not the case of the appellant-State (Investigating Agency) that the respondent Nos. 1 and 2-accused have misused the liberty granted pursuant to the order dated 5th April 2019.

3. In the above facts, we are not inclined to interfere with the impugned order dated 5th April 2019.

4. However, in the facts of the case, we pass the following order:

- i) The trial Court is directed to conduct the trial on day to day basis and dispose the same till 16th April 2021.
- ii) The trial Court shall finalize the calendar of the sessions trial and submit its report to this Court till 20th January 2021.
- iii) The Investigating Agency shall take all possible steps to ensure the timely disposal of the trial.
- iv) The respondent Nos. 1 and 2-accused shall remain present on each and every date of the trial. If the respondent Nos. 1 and 2 remain absent on any date of the sessions trial before the Sessions

Court, the order passed on Misc. Criminal Application No. 49 of 2019 on 5th April 2019 shall stand revoked and the learned Sessions Judge shall direct the Investigating Agency to immediately take the defaulting accused in custody.

- v) The Investigating Agency and the trial Court are put to notice that further extension will not be granted for concluding the trial unless compelling circumstances are pointed out to this Court.

The appeal is **disposed** in the above terms.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J.)

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