

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

CRIMINAL WRIT PETITION NO.802/2021

Mohd. Sagir Bashir Chouhan Vs. State of Maharashtra and Anr.

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

Court's or Judge's orders

Mr. Raju Kadu, Advocate for Petitioner.
Mr. T. A. Mirza, A.P.P. for Respondent/State.

CORAM : M. S. SONAK AND
PUSHPA V. GANEDIWALA, JJ.

DATE : 03/12/2021.

1. In this case, it was pointed out to us that the petitioner had earlier filed a Criminal Writ Petition to challenge the very same order which is now impugned in this petition. This Criminal Writ Petition No.462/2021 was disposed of by order dated 16.07.2021. By suppressing this fact, the present petition has been filed.

2. Now, that the learned Counsel for the petitioner states that he was unaware of this position and he filed a petition based on instructions received from the prisoner/petitioner.

3. According to us, it is the duty of the petitioner to impart correct instructions to his Advocate, and the Advocate to specifically ascertain from the petitioner all the facts, in particular the fact whether any previous petition has been filed before assuming the responsibility of filing the petition and signing the pleadings by himself or herself.

4. In this case, we accept that this may have been bonafide mistake and therefore, do not carry the matter any further. But all that we say, is that in future, such petitions should not be filed without ascertaining the full and correct facts. It is always not possible for us to recollect the record. The same can be the position even in the office of the learned Additional Public Prosecutors. Therefore, in terms of the rules, there is a requirement to plead that no other petition was filed concerning the same subject matter or that no other petition is pending elsewhere. This requirement has to be complied with. Even the Registry should verify that such pleadings are made. This will assist the Court in fixing responsibility if any misstatement is made or if there is some omissions.

5. In this case, we permit the petitioner to withdraw this petition without any order for costs on this occasion.

(PUSHPA V. GANEDIWALA, J.)

(M. S. SONAK, J.)

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