

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.908 OF 2022

**HARIDAS SHAMRAO LOMTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....
Mr. Irfan D. Maniyar, Advocate for the Petitioner
Mr. S.P. Deshmukh, APP for Respondent No.1/State
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 26 AUGUST, 2022

PER COURT:-

. The petitioner has challenged the order of discharge passed by the learned Judicial Magistrate, First Class, Ambajogai dated 02.05.2022 in private complaint proceedings vide R.C.C. No. 71 of 2019.

2. Mr. Maniyar, learned counsel for the petitioner submitted that though 5 to 6 chances were given by the learned Magistrate to the petitioner/original complainant to lead the evidence before charge, but he could not lead the evidence due to miscommunication between him and his advocate. He submitted that the petitioner has a strong case. One opportunity may be given to the petitioner to lead his

evidence in support of his case. Even costs may be imposed while allowing this writ petition so that the criminal case can be decided on its own merits. He submitted that there was a Covid-19 pandemic for near about two years, and as such, there was no reason for the petitioner to attend the court. He, therefore, urged to quash and set aside the order passed by the learned Magistrate, thereby discharging the original accused.

3. Mr. Deshmukh, learned APP supported the impugned order passed by the learned Magistrate dated 02.05.2022.

4. The Covid-19 pandemic began from the last week of March 2020. Certainly, the courts were not functioning with full strength in view of Standard Operating Procedure (SOP) and guidelines issued by the High Court. The question is whether the learned Magistrate has given sufficient opportunities to the petitioner to lead the evidence before charge and the order of discharge is passed hurriedly.

5. On going through the copy of the *Roznama* sheet made available by Mr. Maniyar, learned counsel for the petitioner, the following scenario regarding adjournments for evidence before charge would reveal.

1	2
04.02.2022	21.12.2020
13.03.2020	29.01.2021
13.04.2022	30.03.2021
10.08.2022	25.11.2021
21.09.2022	21.01.2022
31.10.2020	04.03.2022
Order on 02.05.2022	

6. The above factual scenario would indicate that the learned Magistrate has given more than sufficient opportunities to the petitioner/original complainant to lead evidence before charge. One can understand about Covid-19 period. The learned Magistrate has not passed the order of discharge during Covid-19 Pandemic. Even after lifting the SOP of Covid-19, the petitioner/original complainant remained absent. No pains were taken by the petitioner to prosecute the complaint in a *bona fide* way. It is admitted by Mr. Maniyar that there was miscommunication between the petitioner/original complainant and his advocate, which ultimately resulted in the above scenario.

7. It is a classic example to prolong the matter when the courts are flooded with the dockets. Such a litigant cannot be

encouraged to continue the case. He has neglected to prosecute the case even after granting sufficient chances by the court. I do not see any merit in the petition.

8. The criminal writ petition stands dismissed.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane