

AGK

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

CRIMINAL WRIT PETITION NO.708 OF 2019

Raju Radhyesham Dadhich

Alias Sharma

...Petitioner

V/s.

Kamal Radhyesham Dadhich

& Anr.

...Respondents

Mr. Chaitanya Chavan i/by Ritesh S. Wagh for the
petitioner.

Mr. A. D. Kamkhedkar, APP for the State.

CORAM : AMIT BORKAR, J.

DATE : OCTOBER 4, 2022

P.C.:

1. The office remark shows that the respondent no.1 is served. On 24th August 2022, the respondent no.1 was present and, therefore, the matter was adjourned for today as a last chance. Today also the respondent no.1 is not appearing and, therefore, the matter is being decided on merits.

2. The petitioner is challenging order passed by the revisional Court confirming order of issuance of process against the petitioner.

3. Respondent No.1 filed a complaint. The learned Magistrate on 25th June 2015 issued process against the petitioner for offense punishable under sections 504, 506 of the Indian Penal Code. The

said order was challenged in revision under section 397 of the Code of Criminal Procedure. It appears from the order that the petitioner raised a specific contention that before issuance of process, no inquiry as mandated by section 202 of the Code of Criminal procedure was conducted. Perusal of the impugned order shows that this material contention on behalf of the petitioner has not been adverted to by the revisional Court. It is well settled that the inquiry under section 202 is mandated in case the accused is residing outside the territorial jurisdiction of the Court. Apart from the said fact, it appears that the revisional Court has considered first information report registered after the order of issuance of process which could not have been taken into consideration by the revisional Court while deciding the validity of the order of issuance of process.

4. In that view of the matter, in the interest of justice it is necessary that the revisional Court should re-consider the revision of the petitioner afresh after giving opportunity to both sides.

5. I, therefore, pass the following order:

- (a) The impugned order dated 31st December 2018 passed by the Additional Sessions Judge, Thane in Revision No. 193 of 2016 is quashed and set aside;
- (b) The learned Additional Sessions Judge, Thane shall decide the revision application afresh considering the submissions recorded above.
- (c) The revisional Court decide the revision application within six (6) months from the date of production of copy of this

order;

(d) The petitioner shall appear before the revisional Court on 17th October 2022.

6. The ad-interim relief granted on 16th August 2019 shall remain in force during the pendency of the revision application before the Additional Sessions Judge, Thane.

7. The writ petition stands disposed of in these terms. No costs.

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(AMIT BORKAR, J.)