

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

CRIMINAL WRIT PETITION NO.981 OF 2022

Habib Abbas Fakih ..Petitioner
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Habib Abbas Fakih, Petitioner in-person.

Mr. A. D. Kamkhedkar, A.P.P for the Respondent No.1– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th APRIL 2022

P.C. :

1. Heard the petitioner, who appears in person.
2. By this petition, the petitioner has sought the following substantive prayer:-

“15) ”

- (ii) Hon'ble Court be pleased to direct the Ld. Judicial Magistrate First Class, Pen, District – Raigad to grant and expedite the hearing in time bound period of the Complaint bearing R.C.C. No.39/2014 filed by the Petitioner, and the same shall be decided on merits as expeditiously as possible and not later than 3 / 4 months.”

3. Perused the papers. It appears that there were two cases that were filed by the petitioner as against the respondent No.2 i.e. one under Section 138 of the Negotiable Instruments Act and one FIR being C.R. No.349 of 2012, registered with the Vakola Police Station, Mumbai, for the alleged offence punishable under Section 420 of the Indian Penal Code. It appears that the respondent No.2 had filed a writ petition in this Court being Criminal Writ Petition No.4258 of 2013 contending therein that both the cases arise from the same transaction and therefore it was proper and reasonable to transfer both the cases to one Court, so as to avoid conflicting decisions on identical facts and circumstances.

4. A Division Bench of this Court (Coram: Naresh H. Patil & V. L. Achliya. JJ.) vide order dated 23rd January 2014 having regard to the facts and circumstances of the case, the nature of allegations made and the submissions advanced, directed that both the cases be tried by the same Court, so as to avoid conflicting decisions on identical facts and circumstances. This Court vide the very same order directed the learned Judicial Magistrate First Class, Pen, to expeditiously dispose of both the cases i.e. Criminal Case filed under Section 138 of the Negotiable

Instruments Act as well as Criminal Complaint, alleging an offence punishable under Section 420 of the Indian Penal Code.

5. The petitioner, who appears in person informs that the learned Judicial Magistrate First Class, Pen, disposed of the complaint filed under Section 138 of the Negotiable Instruments Act in 2020, however, till date despite the direction passed by the Division Bench of this Court, has not disposed of the Criminal Complaint alleging an offence punishable under Section 420 of the Indian Penal Code i.e. R.C.C. No.39 of 2014.

6. Considering the aforesaid, it will be appropriate to direct the learned Judicial Magistrate First Class, Pen, Raigad to dispose of the said case i.e. R.C.C. No.39 of 2014, as expeditiously as possible, and in any event on or before 31st August 2022. It is expected that the parties co-operate in the expeditious disposal of the said case.

7. Petition is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that this Court has not gone into the merits of the case and as such all contentions of all parties are kept open.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.