

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

CRIMINAL WRIT PETITION NO.6749 OF 2021

Dr. Pramod D. Thorawade

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Abhinav Chandrachud a/w Mr. Deepak Sharma and Ms. Megha Keluskar i/b DMS Legal for the Petitioner

Ms. P. P. Shinde, A.P.P for the Respondent No.1–State

Mr. Vimlesh Singh for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 24th FEBRUARY 2022

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner has impugned the order dated 5th February 2021 passed by the trial Court below Exhibit 46, by which the petitioner's application seeking discarding of a portion of the affidavit of evidence of PW 1, for failure to comply with paras 3 and 5 of Chapter VII

of the Criminal Manual, came to be rejected, as well as the order dated 20th November 2021 passed by the learned Sessions Judge, Mumbai, by which the petitioner's revision application came to be rejected and the order of the trial Court came to be confirmed. The petitioner has also challenged the 'no cross' order passed on 23rd December 2021 by the trial court, pursuant to the leave to amend granted by this Court on 23rd February 2022.

3 As far as the impugned order dated 5th February 2021 and 20th November 2021 are concerned, without going into the merits of the same, it would be appropriate to direct the trial Court to consider the objection raised by the petitioner with respect to non-compliance of paras 3 and 5 Chapter VII of the Criminal Manual, at the stage of final arguments in the said case. The trial Court, uninfluenced by its earlier order dated 5th February 2021 and the order dated 20th November 2021 passed by the Sessions Court, to consider the said objection on its own merits, after hearing both the parties.

4 As far as the no cross order passed on 23rd December 2021 is concerned, the same is quashed and set-aside, to enable the

applicant/accused to cross-examine the complainant, in the interest of justice, subject to payment of cost of Rs.10,000/- to the respondent No.2/complainant.

5 Learned counsel for the petitioner, on instructions, assures that the advocate for the petitioner in the trial Court will proceed with the cross-examination of the respondent No.2 on the next date and will not seek any adjournment. Statement accepted. Cost to be paid to the complainant within one week from today.

6 The petition is allowed on the aforesaid terms and is disposed of accordingly.

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

REVATI MOHITE DERE, J.