

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

CRIMINAL WRIT PETITION NO.912/2021

Sanjay s/o Bhaurao Deshmukh

...Versus...

State of Maharashtra, Through D.G.P, Washim, Tah. and District – Washim and another

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

Court's or Judge's orders

Shri A.D. Girdekar, Advocate for petitioner
Ms T.H. Udeshi, APP for respondent no.1
Shri P.S. Gawai, Advocate for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 28/04/2022

1. Heard Shri Girdekar, learned Counsel for the petitioner and Shri Gawai, learned Counsel for the respondent no.2. Ms Udeshi, learned Additional Public Prosecutor appears for the respondent no.1/State.

2. The present petition challenges the order dated 28/09/2021, by which the revision filed by the petitioner before the learned Sessions Court came to be dismissed on account of his absence.

3. Shri Girdekar, learned Counsel for the petitioner submits that there was no intention on part of the petitioner not to prosecute the said revision and therefore, the

impugned order needs to be set aside.

4. Shri Gawai, learned Counsel for the respondent no.2 vehemently opposes the petition and submits, that the order-sheets placed on record from page 28 to 36 would indicate that the petitioner and his Counsel have been consistently absent and therefore, the intention not to prosecute is manifest on record, considering which, the petition needs to be dismissed. In the alternative, he submits that costs of Rs.10,000/- is liable to be imposed upon the petitioner, in case the impugned order is to be set aside.

5. The order-sheet of the learned Sessions Court indicates that on 07/03/2020 the applicant and his Counsel were present and an application for issuance of summons to the respondent by RPAD was filed, which was granted. Thereafter, the matter has been adjourned from time to time on account of the acknowledgment in respect of the said RPAD not having been received back, till 25/11/2020 when it was received unserved. Thereafter on account of Covid-19 pandemic, it appears that there was no appearance of the Counsel as well as the petitioner, considering which, the impugned order is hereby set aside, however, at the cost of Rs.10,000/- (Rupees Ten Thousand Only), to be paid by the petitioner to the High Court Legal Services Sub-Committee, Nagpur, within a period of one week from today.

6. It is made clear that any further procrastination by the petitioner of the proceedings before the learned Sessions Court shall not be countenanced.

7. The writ petition is allowed and disposed of accordingly.

(AVINASH G. GHAROTE, J.)

Wadkar