

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

19 CRIMINAL WRIT PETITION NO.633 OF 2023

1. Siddharth Suhas Ingole
2. Sheela Maruti Manwar .. Petitioners

Versus

Smt. Aruna Uttam More .. Respondent

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Advocate for Petitioners : Mr. Shrimant R. Kedar

Advocate for Respondent : Mr. U.B. Deshmukh

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CORAM : R. M. JOSHI, J.

DATE : AUGUST 28, 2023

PER COURT :

. Learned counsel Mr. U.B. Deshmukh files appearance on behalf of the respondent. It is taken on record.

2. This petition takes exception to the order dated 03.11.2022 passed by the Judicial Magistrate First Class, Court No.9, Aurangabad below Exh.28 in SCC No.311081 of 2014 rejecting application filed by the petitioner / accused for leading evidence by recalling 'no evidence' order.

3. Learned counsel for the petitioner submits that the

accused has indispensable right to defend himself in any criminal proceedings and hence, on technicalities, the learned Trial Court ought not to have rejected the request of the defence to lead evidence.

4. The said submission is vehemently opposed by learned counsel for the respondent by contending that not less than 43 occasions the defence has failed to lead evidence and the whole intention of the defence is to protract the proceedings.

5. Having regard to the facts of the case, it cannot be said that learned Magistrate was totally wrong in passing of the impugned order. However, it cannot be ignored that accused is facing criminal trial, which has drastic consequence of facing imprisonment. In such circumstances, the Court holds that by imposing appropriate conditions, he can be permitted to lead evidence.

6. Learned counsel for the petitioner / original accused states that he wants to examine himself, an advocate and two bank managers. Having regard to the nature of the offence, examination of

these witnesses is essential. But appropriate directions are required to be issued to make sure that the proceeding is completed within reasonable time from now.

7. Since the proceedings are pending before the Trial Court since 2014, the accused is directed to appear before the learned Magistrate on 15.09.2023 to examine himself. The evidence of accused i.e. examination-in-chief and cross-examination be recorded and completed on that day. It would be responsibility of the accused to examine necessary three witnesses within a period of one month from 15.09.2023. Concerned proceedings be decided on merit on or before 31.12.2023. No extension for the same would be granted. It would be open for the learned Trial Court to pass appropriate order, if accused fails to conduct proceeding or in any manner tries to delay the same.

8. Petitioner / accused to pay a sum of Rs.5,000/- to the Respondent by way of costs. The payment of costs would be condition precedent for examination of the witnesses of the accused including himself. Learned Trial Court to verify whether the amount

of costs is paid by the petitioner to the respondent before permitting the accused to examine himself and lead evidence. Both the parties to appear before the Trial Court on 15.09.2023.

9. The petition is disposed of in aforesaid terms.

[R. M. JOSHI]
JUDGE

GGP