

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1099 OF 2023

MAHESHKUMAR POORANMAL PARPYANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. V. P. Latange
APP for Respondents: Mr. G. O. Watamwar
Advocate for Respondent Nos. 5.1, 5.2 & 5.4 : Mr. S. R.
Barlinge

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CORAM : R.M. JOSHI, J

DATE : JULY 28, 2023

PER COURT :

1. At the outset, learned Counsel for the Respondent Nos. 5.1, 5.2 and 5.4 objected the maintainability of the Petition on the ground that the order passed by the District Magistrate is final order under Section 145(6) of Cr.P.C. By referring to Section 397 Cr.P.C, it is contended that against said order revision is maintainable before learned Sessions Court.

2. This contention is sought to be opposed by the Counsel for the Petitioner by drawing attention of the Court to the orders passed by DRT allegedly preventing District Magistrate from entertaining application filed before him under Section 145(1) of Cr.P.C.

3. There is no dispute about the fact that impugned order is final order. Section 397 of Cr.P.C provides remedy for filing revision before Sessions Court. The order passed by the Executive Magistrate/District Magistrate is also covered by the said provision. In such circumstances, there is no justification for entertaining present Petition.

4. Learned Counsel for the Petitioner seeks withdrawal of the Petition, he, however, prays for extension of the interim order passed by the Division Bench staying impugned order dated 18.07.2023 passed by District Magistrate. He submits that the said order be continued for the period of one week in order to enable Petitioner to file revision application before competent Court.

5. For the aforesaid reasons, Petition is held to be not maintainable. Petitioner is permitted to withdraw Petition. In order to allow Petitioner to move appropriate application before Sessions Court, order passed by Division Bench on 25.07.2023 is extended till 04th August, 2023. It is clarified that only with a view

to ensure that Petitioner gets breathing time to file application before concerned Court the stay granted by Division Bench is extended. Perusal of the order passed by the Division Bench also indicates that it was time gap arrangement made so as to enable the Petitioner to move before Single Judge. Sessions Court not to continue the said order mechanically. It is, however, open for the Sessions Court to pass appropriate order in accordance with law.

6. Hence, Petition stands disposed of.

7. Parties to act upon an authenticated copy of this order.

(R.M. JOSHI, J.)

Malani