

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1243 OF 2022

MOHAMMAD HAJI RAHIMODDIN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Bhosale Mahesh Kalidas

APP for Respondent No.1/State : Mr. P. M. Kulkarni

Advocate for Respondent No.2 : Senior Advocate Mr. Rajendrraa
Deshmukkh a/w Mr. Govind Kulkarni i/by Mr. Hande Avinash D.

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CORAM : KISHORE C. SANT, J.

DATE : 22nd FEBRUARY 2023.

Per Court :

Heard.

1. This Writ Petition is filed only for limited relief seeking stay to the order passed by the learned Judicial Magistrate First Class, Nanded in O.M.C.A. No.572/2021. Whereby the learned Magistrate has issued direction under Section 156(3) of the Code of Criminal Procedure, directing police to investigate into an offence. The said order was challenged in a Revision Application No.100/2022 by the petitioner by filing in the Court of learned Sessions Judge, Nanded. The petitioner in

the said Revision, filed an application below Exhibit No.6 seeking stay to the effect of execution and operation of the order passed by the learned JMFC, Nanded. The learned Additional Sessions Judge by order dated 08.09.2022 below Exhibit No.6, denied the interim protection to the order passed by the learned JMFC, Nanded.

. Since the said Revision was not decided, the petitioner had approached this Court only to the extent of praying for stay to the order passed by the learned JMFC, Nanded. It is now reported that since there was no stay granted on Exhibit No.6, the FIR is registered on 16.09.2022 on the basis of order passed by the learned JMFC, Nanded. On 19.09.2022, this Court passed first order by granting ad-interim relief in terms of prayer clause 'B'. Since on the date of passing order itself, the order which was sought to be stayed has taken effect. This Court finds that the petition has become infructuous, as the challenge on merits to the order passed by the learned JMFC can be heard only in the Revision, which is pending in the learned Sessions Court.

2. Considering the above, this Court finds that the petition needs to be disposed off as infructuous.

3. At this stage, learned Advocate for the petitioner prays for a direction to the learned Sessions Judge, Nanded to decide the Criminal Revision Application within stipulated period.

4. Considering that the counter complaint is also there, in which the sessions trial has already begun. The learned Sessions Judge, Nanded is therefore requested to dispose off the Criminal Revision Application No.100/2022 as early as possible and preferably within a period of one month from today.

5. With this, the Writ Petition is disposed off.

[KISHORE C. SANT, J.]

Najeeb.