

SA Pathan

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

WRIT PETITION NO.924 OF 2023

Gajanan Anant Patil

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Abad Ponda, Senior Advocate a/w. Mr. Vivek Babar
a/w. Mr. Viral Babar for Petitioner.

Mr. Arfan Sait, APP for State – Respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 14, 2023

P.C.:

1. The challenge in this Petition is to the orders dated 15 November 2003 and 22 July 2005.

2. By the impugned orders learned Designated Judge framed charges against the Petitioner. According to the Petitioner charge under Section 302 of the Indian Penal Code (for short “IPC”) was initially framed, but thereafter, the learned Special Judge by order dated 17 June 2002 discharged the Petitioner for commission of offence punishable under Section 302 of IPC. Therefore, according to the Petitioner again charge under Section 302 of IPC could not have been framed. He submits that, at the most, such charge could have been framed by following procedure as prescribed under the provisions of the Code of Criminal Procedure. Without following such procedure, same charge for which the Petitioner was

discharged and could not have been framed, resulting into the legal prejudice to the Petitioner.

3. It is not in dispute that the evidence of prosecution and the accused is over. Trial is now fixed for making oral arguments of the parties. At this stage, it may not be proper on the part of this Court to examine validity of order of framing of charge as the purpose of framing of charge has become insignificant due to trial being almost over. However, the Petitioner will be at liberty to raise all such contentions as are raised in the Petition before the learned Special Judge and, in case, the decision is against the Petitioner, before the superior Court.

4. Considering the stage of proceedings, I am not exercising extra ordinary power under Article 227 of the Constitution of India.

5. The Writ Petition is, therefore, dismissed.

(AMIT BORKAR, J.)