

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1173 OF 2023

Satpal Mahadeo Rupnawar .. Appellant
Versus
The State of Maharashtra & Anr. .. Respondents

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Mr.Jyotiram Yadav i/b Jai R. Gaikwad for the Appellant.

Mr.S.R.Agarkar, A.P.P. for the State/Respondent.

Mr.Ghanasham Jadhav for the Respondent No.2.

PN 2431 S. A. Fulare, attached to Walchandnagar Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 08th NOVEMBER, 2023

P.C:-

1. As directed earlier, the learned A.P.P. has placed before me a report from the Special Public Prosecutor, who is prosecuting Atrocity Special Case No. No.34 of 2013, in which the present Appellant is being tried for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 120(B)(1) of the Indian Penal Code (for short, **“the IPC”**), Section 3(25) of the Arms Act, Section 7(1)(d) of the Protection of Civil Rights Act, 1955 and Section 135 of the Maharashtra Police Act alongwith Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, **“the Atrocities Act”**).

The aforesaid offence being registered as C.R.No.46 of 2013, it arraigned six persons as accused and the present Appellant is charge-sheeted as Accused No.1. It is not in dispute that he came to be arrested on 27/02/2013 and it is more than a decade that he is incarcerated.

However, his incarceration is not only on the ground that the trial could not be concluded, but worth it to mention that he was facing the charge under MCOCA and he remained in judicial custody in the said case, which was ultimately decided on 08/03/2022 and he was acquitted.

While the MCOCA trial was on going, in terms of Section 10 of the MCOCA, which provide that the trial of any offence under this Act by a Special Court shall have precedence over the trial of any other case against the accused in any other Court (not being a Special Court) and it shall be conducted in preference of the trial of such other cases and accordingly the trial of such other cases shall remain in abeyance, the trial could not commence in the present case.

2. The counsel for the Applicant would vehemently submit that while this proposition ought to have been made applicable to the other cases, which he was facing and which are highlighted as Sessions Case No.257 of 2014, Special Case No.3 of 2011, Sessions Case No.28 of 2012 and R.C.C.No.34 of 2013, the trials are concluded while the trial under the MCOCA was going on and in all the four cases, he stood acquitted.

3. The grievance of the learned counsel for the Appellant is that despite of the MCOCA case being decided on 08/03/2022, the trial in the present case has not commenced and even the charge is not yet framed.

Upon such grievance being made, the learned counsel for Respondent No.2 would submit that the accused persons in the said case are adopting dilatory tactics, as some of the accused choose to remain absent and as a result, the Court has to chase them by issuing Non Bailable Warrants/Warrants and when one is produced, another accused does not present himself and this is the specific reason why the charge could not be framed.

4. Mr.Agarkar, the learned A.P.P., has obtained instructions from the Special Public Prosecutor, who has intimated that the prosecution intend to examine 12 to 15 witnesses, and if the Court fixes it calendar, the prosecution is ready and willing to conduct the trial within the time-bound manner.

Though the learned counsel for the Appellant would press into service the period of long incarceration, I do not think that the said ground will come to the aid of the present Appellant, as upto the year 2022, he remained incarcerated since he faced the accusation under the draconian Act like MCOCA.

The reply filed on behalf of Respondent No.2 would reveal that there are 10 CRs registered against the present Appellant right from the year 2011 till the year 2018 and he has been involved in serious offences like 302, 307, 392 and 395 of the IPC and despite his acquittal in the five cases, including the

case under MCOCA, to which the learned counsel for the Appellant has made reference to, he is undergoing the trial, which include the present C.R., where he is charged under Section 302 and 307 apart from the other provisions of the IPC.

5. The long incarceration of an accused is deprecated at all levels and the Courts have leaned in favour of releasing the Applicant on bail, if the trial could not be completed within a reasonable period. However, this is a peculiar case, where the trial in the present case could not be concluded as the trial in MCOCA took precedence and it is only after 08/03/2022, the trial in the present case could progress.

I can very well see that there is delay, as the special Judge dealing with Atrocity Special Case No. No.34 of 2013 has not taken any steps for last twenty months to frame the charge and in any case, it is the Court which is in control of the matter and definitely it is not powerless to deal with the accused persons, who are evading the framing of charge and undergoing the trial.

The only thing is, the Special Judge has to deal with such delaying tactics of the accused, including the present Appellant, with stern hands and, since, now the statement comes from the prosecution that they intend to examine 14 to 15 witnesses, let the learned Special Judge prepare a calendar of the Sessions Case, and the same shall be placed before this Court, as I intend to list the matter for compliance.

As far as the ground for his release on bail, I do not find any substance, as the Appellant has a criminal antecedents and though he has been acquitted in five cases, he do not deserve benefit of his release on bail, as what is important is the potentiality to commit an offence and it is seen that consistently for last one decade, the Appellant has embroiled himself in serious accusation, though he may have been subsequently released/acquitted in some cases on the ground of benefit of doubt.

With this criminal background, I am not at all inclined to grant relief, though I am of the opinion that the trial against him shall be concluded expeditiously.

The Appeal stands dismissed.

6. The Special Judge, Baramati shall, therefore, frame the calendar in Atrocity Special Case No. No.34 of 2013 in a manner so that the trial shall be completed within a period of one year, to be counted from 01/12/2023.

The above order shall be communicated by the Registrar (Judicial I) to the Special Judge, Baramati, who is conducting trial in Atrocity Special Case No. No.34 of 2013, who shall furnish the compliance report, on preparation of a calendar of the case.

List for compliance on 08/12/2023.

(SMT. BHARATI DANGRE, J.)