

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

CRIMINAL WRIT PETITION NO.2622 OF 2021

Vijay Manik Dhale

Petitioner

versus

The State of Maharashtra

Respondent

Ms.Manisha Jagtap, appointed Advocate for Petitioner.

Mrs.M.H.Mhatre, APP, for State.

**CORAM : A.S.GADKARI AND
PRAKASH D.NAIK, JJ.**

DATE : 24th January 2023

PC :

1. By the present petition, the Petitioner has requested this Court to permit him to retract his statement u/s.164 of Code of Criminal Procedure (Cr.PC) recorded under the pressure of police.

2. At the outset, it be noted that, the statement u/s.164 of Cr.PC is always recorded by a Magistrate after complying with necessary legal formalities. The contention of Petitioner that, he was forced by police to give his statement u/s.164 of Cr.PC before Judicial Magistrate, First Class, cannot be accepted for the simple reason that, Petitioner was not in the custody of police when the said statement was recorded.

3. Even otherwise, Petitioner is having remedy of filing an

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application for its retraction. It is the settled position of law that, the defence of the Petitioner in the trial cannot be adjudicated in Writ Petition under Article 226 of Constitution of India.

4. According to us, present petition is misconceived and is dismissed in limine.

(PRAKASH D. NAIK, J.)

(A.S.GADKARI, J.)

MST