

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4607 OF 2021**

Vinay Deviprasad Dubey

.....Petitioner

Vs.

State Of Maharashtra

.....Respondent

Mr. Vinay Deviprasad Dubey, Petitioner in person.

Mrs. A.S.Pai, P. P. a/w. Mr. Ajay Patil, APP for Respondent-State.

Dr. Balsing Rajput, Deputy Commissioner of Police (Detection) Crime Branch, Mumbai present.

Mr. Balasaheb Shinde, PI., Unit DCB, CID, Mumbai present.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 8th AUGUST, 2023.****P.C.:-**

1) Present Petition is a classic example of sheer abuse of process of law by the Petitioner, who is a practicing Advocate.

By the present Petition under Articles 226 and 227 of the Constitution of India, the Petitioner has impugned Orders dated 1st March, 2021 and 30th March, 2021 passed by the learned Sessions Judge, Greater Mumbai in Criminal Revision Application No.17 of 2020 preferred by the Petitioner and various consequential and inconsequential reliefs, including prayer for punishment to the concerned Officers of Wadala T.T. Police Station and for quashing of charge-sheet bearing C.C. No.2900576/PW/2018 arising out of C.R. No.117 of 2018 registered with

Wadala T.T. Police Station, Mumbai under Section 354 of Indian Penal Code.

2) Heard Petitioner in person at length, Smt. A.S. Pai, learned PP for the Respondent No.1 and Ms. Gonsalves, learned Advocate for Respondent No.2. Perused entire record produced before us.

3) In the impugned Order dated 1st March, 2021, the Revisional Court has observed as under:-

“Applicant is at liberty to file documents on which he intends to rely upon, entire Record & Proceedings would not be necessary, as such application (Exh.8) is disposed off.”

*“Applicant in person states that he will file written submissions. It is made clear that pendency of this proceeding shall not be an impediment in proceeding with the criminal case i.e. pending before Bhoiwada court. Concerned court be intimated accordingly
Adjourned to 30.03.2021 for Hearing.”*

4) In impugned Order dated 30th March, 2021, the Revisional Court has observed that:-

“Applicant who is an advocate in person and facing prosecution u/s.354 of IPC had filed transfer application before Ld. CMM on the ground that he would not get justice before the Ld. Metropolitan Magistrate, 29th Court, Dadar, Mumbai. The said application was rejected on 17th December, 2019 and the said order is challenged before this court in revision and the revision is pending since last

more than 15 months. Several opportunities were given to the applicant to argue the main matter but even today he is not ready to go on with the matter.

He filed application for calling R & P vide Exh.2. However it was rejected by my Ld. predecessor and again he filed similar application at Exh.8 and the same was also rejected on 01st March, 2021 and it was specifically communicated to the Ld. Metropolitan Magistrate that pendency of these proceedings would not be an impediment for proceeding with the criminal case.

Today applicant has filed three applications. One seeking adjournment for three months for challenging the order passed on 01.03.2021 which is at Exh.16. Although the applicant is at liberty to challenge the order, seeking time on that count when already 30 days have passed after passing of the order cannot be justified. The said application is accordingly rejected. Application Exh.14 is also rejected being for same relief.

He has then filed an application seeking stay of proceedings before Ld. Metropolitan Magistrate which is at Exh.17. However considering the history narrated hereinabove proceedings need not be stayed. The said application is also rejected.

He has also filed application seeking directions to Ld. Metropolitan Magistrate, Bhoiwada, Dadar to save CCTV Footage of 18.03.2021 which is at Exh.18. The said application would not be maintainable in the present proceedings, since it is only the legality of the order passed by the CMM which is to be examined in the revision, as

such this application stands rejected.

Applicant at this stage undertakes to argue the matter on 12.04.2021 as such by way of last opportunity, matter adjourned to 15.04.2021 for Hearing.”

5) A bare perusal of the said Orders would indicate that those are purely interlocutory and have not decided the issue involved in the Revision Application. Seeking a three months adjournment for challenging Order dated 1st March, 2021 and filing of successive Applications for same or similar reliefs clearly reveals that, the Petitioner intends to protract the trial pending on the file of learned Metropolitan Magistrate 29th Court, Dadar Mumbai and nothing else. The present Petition challenging the said interlocutory Orders therefore is not maintainable.

6) As far as the quashing of CC No.2900576/PW/2018 arising out of C.R. No.117 of 2018 registered with Wadala T.T. Police Station, Mumbai and initiation of action against the concerned police officers as prayed for is concerned, this Court today by a detailed Order passed in Writ Petition No.4610 of 2021 has rejected same and/or similar prayers of the Petitioner in the said Petition. The findings recorded and observations made in Order dated 8th August, 2023 in Writ Petition No.4610 of 2021 are *mutatis-mutandis* applicable to the present Petition.

6.1) According to us, filing of present Petition is nothing but an attempt to protract the trial wherein the Petitioner is an accused.

7) In view of the above, we find that, there are no merits at all in the Petition and is accordingly dismissed *in limine*.

8) Perusal of Order dated 1st March, 2021 clearly indicates that, the Revisional Court has not granted stay to the trial of the Petitioner being conducted before the learned Metropolitan Magistrate at Dadar, Mumbai. Record indicates that, since the year 2018, the Petitioner is filing successive Applications and/or Petitions before the various forums with a view to protract or to procrastinate the said trial.

8.1) In view thereof, we direct the learned Metropolitan Magistrate, 29th Court, Dadar, Mumbai to expedite CC No.2900576/PW/2018 as per the provisions of law and to conclude it at the earliest.

9) In pursuance of our detailed Order dated 31st July, 2023, the Deputy Commissioner of Police (Detection) Crime Branch, Mumbai, has submitted its Inquiry Report dated 8th August 2023 today in the Court. The said report was pointed out to the Petitioner. In a separate Order passed today in the present Petition, we have recorded our *prima facie* opinion about the illegality committed by the Petitioner.

10) In view of the said report dated 8th August 2023 of Dy. Comm. Of Police, Crime Branch, Mumbai we were in fact inclined to direct the concerned Officer from the Registry of this Court to lodge a crime against the Petitioner and/or to refer his case to the Bar Council of Maharashtra and Goa for initiation of appropriate action against him as per the

provisions of Advocates Act.

11) The Petitioner had sought time to ponder upon the same and at his request, though the Petition has already been dismissed, was adjourned to 9th August, 2023.

On 9th August, 2023:-

12) During the course of hearing in furtherance of report dated 8th August, 2023 of Dy. Comm. Of Police, Crime Branch, Mumbai and for initiating appropriate action against the Petitioner, learned Senior Advocates so also the learned Public Prosecutor present in the Court intervened in the matter and requested this Court not to adopt such a stringent action, taking into consideration his age and standing at bar, being a junior Advocate. Petitioner therefore sought time to file his Affidavit. Petition was therefore adjourned to 10th August, 2023.

On 10th August, 2023:-

13) Today, Mr. Mubin Solkar, learned Advocate representing the Petitioner tendered across the bar his Affidavit dated 10th August 2023. In his Affidavit, the Petitioner without admitting the allegations from report dated 8th August, 2023 of Dy. Comm. Of Police and the Registry of this Court, has tendered his apology and requested not to take any action against him.

13.1) In view of the fact as recorded above that, Senior Advocates of the Bar have requested this Court, to take a lenient view in the present case

as noted above, we by expressing out magnanimity are acceding to their request.

13.2) The apology tendered by the Petitioner is accepted and we put the issue noted in our Orders dated 31st July 2023 and 8th August 2023 to rest.

14) However we put the Petitioner on notice that, in the future if such sort of misconduct and/or illegality by him is reported in any Court in the State of Maharashtra, necessary stringent action as may be permissible in law will be initiated against him, by the concerned.

15) The Registrar (Judicial-II) is directed to preserve the original record of this Petition for a period of at least 5 years from today, as the original Orders including the tampered Order dated 17th July, 2023 and Report dated 8th August, 2023 submitted by the Dy. Comm. Of Police, Crime Branch, Mumbai are part of present proceedings.

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date: 2023.08.19
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