

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

CRIMINAL REVISION APPLICATION NO.142 OF 2023

Satish Vithal Mane & Anr. Applicants

versus

State of Maharashtra Respondent

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- Ms. Sneha Pandey a/w Ramesh Pandey a/w Nivedita Pandey,
Advocate for Applicants.
- Mr. N. B. Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 13th JUNE, 2023

P.C. :

1. Heard Ms. Sneha Pandey, learned counsel for the Applicant and Mr. N. B. Patil, learned APP for the State.
2. Leave to amend. The amendment shall be carried out forthwith. The amendment is sought to challenge the order directing to deposit the cost of Rs.5,000/-. The necessary amendment shall also be made in the memo of the application. Apart from this order to deposit cost of Rs.5,000/- the

Applicants have challenged the order dated 10/05/2023 passed by the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, in C.C.No.PW/339/2018.

3. The Applicants are the original accused and the case is at the stage of recording of defence witnesses. As of today, five defence witnesses are already examined. The Applicants had given a list of witnesses on 04/05/2023. The Applicants want to examine Vimal Kadahi and Suman Mane. They made an application on 10/05/2023 for permitting the defence to examine those defence witnesses. However, the learned Magistrate vide his impugned order dated 10/05/2023 rejected that application on the ground that the matter was time bound and the matter was to be decided on or before 09/06/2023. He also recorded that the defence had already examined five witnesses.

4. After this order was passed, the Applicants preferred Interim Application (ST) No.9526 of 2023 in Writ Petition

No.3558 of 2021. Originally in the Criminal Writ Petition No.3558 of 2021 a Division Bench of this Court, on 09/06/2022, had directed the Trial Court to complete the trial within 12 months from that date and therefore learned Magistrate was insisting that no adjournment would be granted as the trial had to be completed before 09/06/2023.

5. However, another Division Bench of this Court sitting in the vacation, vide order dated 17/05/2023, extended that period by further two months from 17/05/2023. Therefore as of today, the period for conclusion of the trial stands extended. In these circumstances and also in the interest of justice, in my opinion, the defence can be given full opportunity to examine their remaining two defence witnesses. Learned counsel for the Applicant states that they will conclude recording of the defence witnesses on or before 30/06/2023. The statement is accepted. The matter can thus safely be concluded within a period of two months from 17/05/2023. Directions to the accused to deposit cost of Rs.5,000/- is not necessary.

6. In view of this discussion, following order is passed :

ORDER

- (i) The order dated 10/05/2023 passed by the Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, in C.C.No.PW/339/2018 is set aside.
- (ii) The order dated 08/06/2023 directing the Applicants to deposit Rs.5,000/- is set aside.
- (iii) The Applicants are permitted to examine their two witnesses namely Vimal Kadahi and Suman Mane on or before 30/06/2023.
- (iv) It is clarified that no unnecessary adjournments shall be sought by the Applicants and they will in any case close their evidence on or before 30/06/2023.
- (v) With these directions and observations, the application is disposed of.

(SARANG V. KOTWAL, J.)