



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 547 OF 2024

SUNANDA SUNIL CHAUDHARI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Atmaram J. Patil, Advocate for the Petitioner

Mrs. S.S. Joshi, APP for Respondent No.1/State

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 01st APRIL, 2024

PER COURT :

1. By this petition filed under Article 226 and 227 of the Constitution of India, petitioner challenges order dated 05/10/2012, passed by learned Judicial Magistrate First Class, Raver, in Criminal Misc. Application No.65/2012, under Section 451 of Cr.P.C., thereby rejecting application filed by petitioner for releasing amount seized by police in his account in State Bank of India.

2. The order dated 05/10/2012 passed by the trial Court was subject matter of challenge in criminal revision application filed under Section 397 of Cr.P.C., along with delay condonation application bearing Cri. Misc. Application No.44/2021. Sessions Court rejected the delay condonation application by order dated 05/01/2022. Petitioner, thereafter filed Criminal Writ Petition No.351/2022, which was dismissed on merit, on 22/06/2023. Petitioner has now challenged order dated 05/10/2012, passed by

the trial Court under Section 451 of Cr.P.C. contending that said order is nullity and is unsustainable in law.

3. Learned APP has rightly raised issue of maintainability of present petition. Learned advocate for petitioner submits that since the order impugned in present petition is nullity, petitioner is entitled to challenge the same under Article 226 and 227 of the Constitution of India.

4. When the Court made query about delay in filing present petition, answer is given that order passed by the trial Court was subject matter of challenge in criminal revision application filed along with Criminal Misc. Application No.44/2021, and thereafter before this Court in Criminal Writ Petition No.351/2022. Therefore, there is no delay.

5. The petition filed by petitioner is misconceived and is not maintainable. Petitioner's challenge to the trial Court's order was rejected by Sessions Court and said order is confirmed by this Court in Criminal Writ Petition No.351/2023. Therefore, petitioner is not entitled to challenge the order passed by trial Court again by filing separate writ petition. Writ petition is dismissed as not maintainable.

(NITIN B. SURYAWANSHI, J.)