



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CRIMINAL APPLICATION NO. 2372 OF 2024

SACHIN BALASAHEB TAKE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Kotkar Sanjay D.

APP for Respondent/s-State : Mr. S. P. Sonpawale.

Advocate for Respondent No.2 : Mr. Narwade Vinayak P,
Ms. Manjushri V. Narwade.

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CORAM : S. G. MEHARE, J.

DATE : 16.08.2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State at admission stage.

2. Learned counsel for the applicant submits that on the day of the incident, the applicant was not present on the spot of the incident. The trial is not proceeding ahead since 2021. The complainant is deliberately remaining absent from the trial. He further argued that reading the complaint, no offence is made out.

3. Learned counsel for the respondent submits that the applicant has to prove the defence of alibi by leading

appropriate evidence before the Trial Court. His bare words would not serve the purpose. The trial was opened long back. Since then, there were no complaints. Apart from that, there was sufficient material to take cognizance against the applicant. Since 2021, there was no challenge to the order of issuing process.

4. Perused the FIR and the complaint. The Court is of the view that *prima facie* material was available before the Magistrate to issue process. Defence of alibi is the matter of evidence. Non proceeding with the matter is no ground to quash the complaint. If the complainant does not attend the trial, the law provides for dismissal of the complaint. Such application ought to have been filed before the Magistrate. However, the hidden intention of the applicant in filing this petition was that he wanted to get the trial expedited by order of this Court. There were no merits in the matter. However, the learned Judicial Magistrate First Class No.2, Shrirampur, District Ahmednagar is directed to pass an appropriate orders if the complainant deliberately remains absent and withheld the progress of the trial. An endeavour should be made to dispose of the complaint at the earliest.

5. Criminal application stands dismissed at the admission stage.

6. No order as to costs.

(S. G. MEHARE, J.)

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vmk/-