



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

88 CRIMINAL APPLICATION NO. 3650 OF 2023

SHAIKH JAVED ABDUL SATTAR
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. G. D. Jain (appointed through Legal Aid)
APP for Respondent/State : Mr. Satish A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 2nd FEBRUARY, 2024.

PER COURT :-

. This is an application for quashing the order passed by the learned Additional Sessions Judge, Parbhani in Sessions Case No.36 of 2014 below Exhibit-107. The learned trial Court in paras 9, 10 and 11 has observed as under : -

“09. In view of the advice sought from the Court as per Exh. 107 prayer by the accused by the present application, it would be necessary for the accused to take the legal assistance from the office of the defence counsel, which has been established as per the directions of the Hon’ble High Court and the Id. Chief Legal Aid Defence Counsel Shri. G.R. Selukar is present before the Court.

10. I also give a task Id. Chief Legal Aid Defence Counsel to convince the accused-in-person, if it possible by taking endeavour to give understanding about what is necessity about

examination of defence witnesses and when it is necessary to examine defence witnesses & whether really it is necessary to examine 27 defence witnesses as accused in person wants to examine.

11. With these observations, I disposed of Exh. 107 accordingly. Hence, matter be fixed on 10.08.2023, after 09.08.2023 as transfer petition second time moved before the Hon'ble P.D.J. Parbhani. Hence, accused-in-person to engage an advocate or take the assistance of the Legal Aid Defence Counsel. This Court has passed the order as per directives of the Hon'ble High Court, which has been explained to the accused in Marathi and Hindi language. However, accused adamantly said that he does not want to engage advocate & he wants to conduct trial in person only."

2. The learned advocate for the applicant submitted that the applicant is expecting to conduct his case on his own and he is not willing to take the legal assistance from the defence counsel to be appointed through Chief Legal Aid Defence Department of Parbhani Court.

3. The learned APP strongly opposed the application.

4. Perused the application at Exhibit-107. The applicant has prayed for guidance from the Court for submitting 65B certificate in support of memory card. The learned trial Court has observed so

many things showing the conduct of this applicant that he is not able to conduct his case. It is also observed that even prosecution has not examined 27 defence witnesses and this applicant is willing to examine 27 witnesses. This is nothing but deliberate attempt to prolong the case, which is pending in the Court of Additional Sessions Judge, Parbhani since 2014. Applicant has habit to file such applications in this Court. Criminal Application No.4019 of 2022 was also filed without any justification which was rejected by this Court on 11.01.2023.

5. Considering all these reasons, the order passed by the learned trial Court is legal and correct and does not require interference. The application for quashing the said order sans merit. There is no any illegality and perversity in the impugned order. The judicial discretion is exercised by the trial Court. There is not at all any substance, the application, therefore, deserves to be rejected. It is rejected accordingly. Considering all these aspects, it would be proper to saddle exemplary costs of Rs.2,000/- to be deposited in the District Services Sub-Committee, Parbhani by this applicant within one month from today. If it is not deposited the trial Court shall proceed as per law.

6. Considering the facts and circumstances of the case, it seems that the applicant has caused delay for trial and also by this application without any justification the trial is held up from 2014.

Recently, the Hon'ble Supreme Court issued directions to the trial Court to conduct old cases of 5-10 years etc., within one year. The applicant is causing hurdle in deciding Sessions Case No.36 of 2014 and also proceeded to file this application without any justification. The Sessions Case must be tried in terms of wording that "Once it is started, it shall not be stopped." In such circumstances, if the applicant is not willing to engage an advocate and in future he may pray for the same, therefore, it is in the interest of this applicant to appoint Lawyer. The learned Trial Court is, therefore, requested to appoint Lawyer on behalf of this applicant to conduct his case, but in any case, he shall not be permitted to conduct the trial in-person.

7. The learned trial Court is also requested to conduct the trial as expeditiously as possible by keeping it at least twice in a week and dispose it of on merits. The trial Court shall not get influenced by the observations made by this Court in this order while finally deciding the case on merits at the time of judgment.

8. If the applicant is not cooperating to the trial Court for conducting the trial, the trial Court may after giving an opportunity to the applicant decide on merits as to whether his bail bond should be cancelled or not without reference to this Court.

9. This Court appreciates the sincere efforts taken by learned appointed advocate Mr.G.D. Jain for applicant. His fees be paid

through the High Court Legal Services Sub-Committee, Aurangabad
as per the rules.

(SANJAY A. DESHMUKH, J.)

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