



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1019 CRIMINAL WRIT PETITION NO. 1755 OF 2023

Shaikh Altaf Shaikh Ahemad Bagwan

VERSUS

Kazi Naimuddin Jamaluddin

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Advocate for the Petitioner : Ms. Pallavi Wangikar h/f Mr. R.V. Gore

Advocate for Respondents : Mr. Swapnil Joshi i/b M/s. J.P. Legal Associates

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CORAM : SHIVKUMAR DIGE, J.

DATED : 25th JUNE, 2024.

PER COURT :-

1. By this writ petition, the petitioner is challenging the order dated 12.10.2023 passed by the learned Additional Chief Judicial Magistrate, Aurangabad below Exh.41 in S.C.C. No. 4014 of 2019, whereby the application filed by the petitioner for issuance of summons to witnesses for examining the witnesses is rejected.

2. Learned counsel for the petitioner submits that the petitioner wants to examine the witnesses in support of his case but the trial court has not considered this fact and has rejected the application. Learned counsel further submitted that if the petitioner is permitted to examine the witnesses, the petitioner undertakes to co-operate the trial court in disposing of the matter as per the directions of this court. Hence, she requested to allow the writ petition.

3. Learned counsel for the respondent submits that the petitioner is prolonging the matter on one or the other pretext. If this court inclined to allow the writ petition, the necessary directions be given to dispose of the pending trial within a time frame. Hence, he requested to pass appropriate order.

4. I have heard both learned counsel. Perused the impugned order. As the petitioner wants to examine the witnesses in support of his case, it is settled law that fair opportunity should be given to both the parties to prove their case. Considering this fact, I pass the following order:-

O R D E R

- I. The writ petition is allowed.
- II. The impugned order dated 12.10.2023 passed below Exh.41 in S.C.C. No. 4014 of 2019 by the learned Additional Chief Judicial Magistrate, Aurangabad is quashed and set aside.
- III. The petitioner is permitted to examine two witnesses in

support of his case.

IV. The trial court is requested to dispose of the matter as early as possible, preferably within two months from the date of this order.

IV. The petitioner shall not file adjournment application before the trial court.

(SHIVKUMAR DIGE, J.)

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