

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2811 OF 2023
WITH
WRIT PETITION NO.2813 OF 2023
WITH
WRIT PETITION NO.2812 OF 2023

VISHAL
SUBHASH
PAREKAR

Digitally signed
by VISHAL
SUBHASH
PAREKAR
Date: 2024.03.22
14:06:16 +0530

Alpesh Raghavji Patel

...Petitioner

VS.

Vinod Maganlal Kenia and Others

...Respondents

Mr. Mahendra Shingade, for the Petitioner

Mr. Jatin Karia (Shah) a/w. Ms. Snehakita Munj, Ms. Shraddha Kamble, for Respondent No. 1.

Ms. Gauri Rao, APP for the State.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 21, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in these petitions is the order dated 7th June, 2023 passed by the learned Metropolitan Magistrate, 6th Court, Mazgaon in CC Nos. 554/SS/2017; CC No. 448/SS/2017 and CC No.449/SS/2017 respectively whereby the applications preferred by the complainant to direct the Income Tax authorities to produce the income tax returns of the AY 2016-17 and onwards of accused No. 1, were allowed.
3. Mr. Shingade, the learned counsel for the petitioner submitted that the applications, purportedly under section 311 of the Code of

Criminal Procedure, 1973, were allowed by the learned Magistrate when the matter was posted for final arguments sans any reason. The impugned orders do not indicate any application of mind. The submission on behalf of the petitioners appears wholly justifiable.

4. In Complaint Case No. 554/SS/2017 and CC No.449/SS/2017 the impugned orders read as under:-

“Perused the application and say filed on it. Considering the grounds in it, it is granted subject to cost of Rs. 700/- payable to legal aid fund”.

5. In Complaint Case No. 448/SS/2017, the impugned order reads as under:-

“Perused the application and say filed on it and heard advocates of both parties. The matter is for the final argument. At the time of final argument, present application is moved. There is no specific reason as to why there has been delay. However, considering the facts and circumstances in the interest of justice, the application is allowed subject to cost of Rs. 700/- payable to legal aid fund.”

6. Suffice to note that the orders singularly lack reason. It is trite reason is the soul of any judicial determination. Since the learned Magistrate has not at all adverted to the issues which may warrant consideration when an application under section 311 of the Code is made at the stage of advancing final argumenst, there is no

other go but to remit the matter back to the learned Metropolitan Magistrate for afresh determination.

7. Hence, the petitions stand allowed.

8. The impugned orders stand quashed and set aside.

9. The learned Magistrate is directed to decide the applications afresh after providing an effective opportunity of hearing to the parties and by recording reasons.

10. It is, however, made clear that this Court has not entered into the merits of the applications.

11. The parties shall appear before the learned Magistrate on the next scheduled date.

Petitions disposed.

(N. J. JAMADAR, J.)