

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Writ Petition No.5448 of 2018

Mr Avtar Singh Sethi

Aged 56 years, Indian Inhabitant
residing at Daddy's Garden Bungalow,
Plot No.368/105, Sher-E-Punjab,
Off. Mahakali Caves Road,
Andheri (East), Mumbai – 400 093.

through his Power of Attorney

Mr Vasudeo Chandrakant Lotlikar,

Aged 52 years, Adult, Indian Inhabitant.

... Petitioner

versus

1. The State of Maharashtra
Through Public Prosecutor
2. Mr Subhash Inderjeet Anand
Adult, Indian Inhabitant, residing
at 401, Sonal Apartment, Plot
No.279, Sher-E-Punjab CHS Ltd.,
Andheri (East), Mumbai – 400 093.
3. Mr Dilip Shiroadkar
Adult, Indian Inhabitant, residing
at 303, Sonal Apartment, Plot
No.279, Sher-E-Punjab CHS Ltd.,
Andheri (East), Mumbai – 400 093.
4. Mrs Neelam Subhash Anand
Adult, Indian Inhabitant, residing
at 401, Sonal Apartment, Plot
No.279, Sher-E-Punjab CHS Ltd.,

Andheri (East), Mumbai – 400 093. ... Respondents

Mr Abhijeet Mahadeokar along with Mr Diwakar Gond for the Petitioner.

Mr Arfan Sait, the Additional Public Prosecutor for the respondent No.1/ State.

Coram : R. N. Laddha, J.

Date : 19 March 2024.

P.C.:

. Heard Mr Abhijeet Mahadeokar, the learned Counsel appearing for the Petitioner, and Mr Arfan Sait, the learned Additional Public Prosecutor appearing for the respondent No.1/ State.

2. This petition challenges the order dated 19 September 2018, passed by the learned Sessions Judge, Mumbai. The order dismissed the Criminal Revision Application No.661 of 2017, filed by the petitioner, which contested the order dated 3 October 2015 passed by the learned Metropolitan Magistrate, 16th Court, Ballard Pier, Mumbai. The Magistrate's order dismissed the complaint (bearing No.29/SW/2010) filed by the petitioner for the offence punishable under Sections 420, 465, 467, 468 read with 120B of the Indian Penal Code.

3. Upon careful examination of the record, particularly the

order rendered by the learned trial Court, it becomes evident that from March 2013, the matter was fixed for argument and underwent multiple adjournments spanning from 12 March 2013 to 27 March 2015. Thereafter, the proceedings were further postponed to 12 June 2015. According to the roznama dated 12 June 2015, the complainant was granted liberty to present evidence under Section 202 CrPC. However, due to the absence of both the complainant and his advocate, subsequent adjournments occurred on 22 July 2015, 11 September 2015 and 28 September 2015. Finally, on 3 October 2015, the complaint was dismissed. It is important to note that although the complainant's advocate was present on 28 September 2015, no steps were taken to lead evidence, nor was any application filed for the complainant's exemption. Furthermore, the complainant himself did not appear during the proceedings on 22 July 2015, 11 September 2015, 28 September 2015 and 3 October 2015. The record reflects that the complaint was ultimately dismissed after affording the complainant at least four opportunities to lead evidence. Notably, the complaint had been pending at the initial stage since 2010 and, more specifically had been listed for arguments since 2013.

4. In view of this, no infirmity can be found in the impugned orders. Accordingly, the petition stands dismissed.

[R. N. Laddha, J.]