

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 92 OF 2024

Ashim Deb and Anr. ...Applicants

vs.

The State of Maharashtra and Anr. ...Respondents

Mr.Ashim Deb:-	Applicant in person.
Ms.Laxmi Vijay Bidri:-	Applicant No.2 present.
Mr.V.N.Sagare:-	APP for Respondent No.1 -State.
Mr.Sanjay Tambde:-	Assistant Registrar – Criminal Filing Section – present.

CORAM : S. M. MODAK, J.

DATE : 27th MARCH 2024

P.C. :-

1. On the basis of directions given on 16th February 2024, the Petitioner No.1 has appeared before the Committee comprising learned Registrar (Judicial-I) and Registrar (Judicial-II). They have opined as follows:-

“.....Having considered three aspects, **firstly**, the erstwhile committee vide order dated 03.12.2021

declined to grant him permission, **secondly**, conduct of the applicant before this Committee on 16.01.2023 and **thirdly** for want of required knowledge to extend necessary assistance to the Hon'ble High Court, the Committee is of the view that it would not be just and proper to grant him permission to appear as party in person before the Hon'ble Court.”

2. The Petitioner No.1 is supplied with the copy of this Report and he claims that he has filed a Writ Petition (ST) No. 864 of 2024 and the circulation is granted on 15th April 2024.

3. Even though, such unfavourable opinion is there, I have heard him. He made following two submissions:-

- (a) He intends to file an Affidavit comprised in pen drive. When asked, he submitted that pen drive contains a soft copy of the documents submitted along with the charge-sheet and he is having some technical difficulty in uploading those papers.
- (b) The matter before the trial Court is fixed on 2nd April, 2024 for framing of charge and he is seeking urgent reliefs.

4. So far as technical difficulty in e-filing, I have called Mr.Sanjay

Tambde who is Assistant Registrar in Criminal Filing Section. He submitted that the concerned clerk who verifies e-filing is on leave and additional charge is given to another staff and that is why, it is taking time. The pen drive which he has brought, cannot be attached to our computer system because one does not know whether it contains a virus or not. Our system will be affected.

5. To deal with this problem, I have granted liberty to the Applicant No.1 to file hard copy of the papers. He assures to file it till 1st April 2024.

6. Still, second problem remains because he is not certified by the Committee. In such a situation, there are two options available to the Applicant No.1. One, to seek some urgent orders from the Division Bench and **second**, to engage an Advocate. He expressed the financial constraints in engaging an Advocate. In such a situation, it will be difficult for the Court to hear the Applicant No.1.

7. Hence, stand over to **24th April 2024.**

8. In the meantime, if the Applicant No.1 will obtain some orders from the Division Bench. He is at liberty to place it before this Court or

if he changes his mind and appoints an Advocate, the concerned Advocate can appear before the Court.

9. In the meantime, let the Applicant No.1 to comply with other directions in the order dated 16th February 2024 which also deal with the representation on behalf of the Applicant No.2. She is present. Applicant No.1 claims that he is having Power of Attorney. He is at liberty to show it to learned Registrar (Judicial-I) with direction to verify whether the Applicant No.1 can represent the cause of Applicant No.2.

10. Now, the matter is fixed before the trial Court on 2nd April 2024 for framing of charge. Learned APP pointed out that the Applicant No.1 due to his non cooperative conduct has created lot of problems before the trial Court. Even, he has brought roznamas. The Applicant No.1 again reiterated his grievances as to how, charge can be framed by the trial Court in absence of the materials. This prayer was also rejected by the trial Court. He has got every right to file a Revision but this Court cannot hear the Revision in view of the circumstances narrated above.

11. In this situation, **there are two options.** One, the Applicant No.1 with all decency can request the trial Court to adjourn the framing of charge and it is upto the trial Court to decide that prayer. Second, In spite of this, if the charge is framed, still the Applicant No.1 has got right to challenge that order being framed on the background for prayer of discharge and to request this Court to set aside said order also. So, if the Applicant No.1 succeeds in Revision, the subsequent order of framing of charge can also be set aside. **This Court can only make this observation considering the facts and circumstances.**

[S. M. MODAK, J.]