



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 61 OF 2024

Lakhan Karpaji Sable

.Vs.

Vandarra Lakhan Sable and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr. Apurv De, Advocate for the applicant.

Mr.K.R. Bhise, Advocate for respondents.

CORAM : G.A. SANAP, J.

DATE : 13.06.2024

Heard learned Advocates for the parties.

2. Perused the record and proceedings.

3. In this application, the challenge is to the order dated 21.10.2023 passed by the learned Judicial Magistrate First Class Mangrulpir District Washim whereby the application made by the applicant at Exh.-33 for setting aside the order dated 16.09.2023 was rejected.

4. The said application was made seeking leave to examine two more witnesses. Learned Magistrate has observed in his order that despite granting sufficient opportunity, the steps were not taken by the applicant to examine the witnesses. The learned Advocate for the applicant submits that in order to meet the ends of justice,

the opportunity be granted to the applicant to examine two more witnesses to substantiate his defence.

5. Learned Advocate for the respondents submits that on account of this conduct of the applicant, the matter has been unnecessarily dragged and delayed. Learned Advocate submits that if this Court is inclined to grant an opportunity to the applicant to examine two witnesses, then in that event, the case pending before the Magistrate may be expedited as well as the cost be saddled on the applicant.

6. On going through the record and proceedings, it is seen that there was some negligence on the part of the applicant in taking timely steps to examine the witnesses. This is evident from the observation made by the learned Magistrate. In my view, in order to give a finality to the ultimate decision passed in the main application, it would be just and proper to grant one more opportunity to the applicant to examine his two witnesses. Hence the following order:-

ORDER

- i] The application is allowed.
- ii] The impugned order dated 21.10.2023 passed by the learned Judicial Magistrate First Class Mangrulpir, District Washim is set aside.

iii] The applicant is allowed to examine two witnesses subject to cost of Rs.5,000/- (Rupees Five Thousand Only).

iv] The cost be deposited before the Trial Court within a week.

v] In view of the peculiar facts, hearing of the main application is expedited. The learned Magistrate shall dispose of the main application within a period of two months from the date of the receipt of the copy of this order.

vi] The Criminal Application stands disposed of accordingly.

(G. A. SANAP, J.)