



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

CRIMINAL APPLICATION (BA) No.108 OF 2024

(Nished s/o. Mahadeorao Wasnik Vs. The State of Maharashtra, through PSO, PS
Yashodhara Nagar, Nagpur)

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

Court's or Judge's orders.

Mr. C.B. Barve, Advocate for applicant.
Mr. B.M. Lonare, APP for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : 2nd MAY, 2024.

1. On 16th April, 2024 following order was passed :

"1. This Court on 28/02/2023 in Criminal Application (BA) No. 1409/2022 filed by the present applicant, passed the following order :-

"After having heard the application at length, when this Court was not inclined to grant relief, the learned counsel for the applicant, on instructions from the wife of the applicant, seeks permission to withdraw the application with liberty to approach this Court after six months, if the trial is not commenced.

2. To my mind, liberty to withdraw the application can be granted. However, I am not inclined to expedite the trial nor am I inclined to grant liberty to approach this Court afresh after six months. The purpose will be served if the application is allowed to be withdrawn in following terms.

ORDER

(i) The application is allowed to be withdrawn with liberty to the applicant to approach the trial Court afresh once material witnesses are examined in the trial.

(ii) The list of ten material witnesses shall be furnished to the trial Court by the prosecution immediately after framing the charges and those witnesses shall be examined as expeditiously as possible.

(iii) The applicant is at liberty to make request to the trial Court for expeditious disposal of the trial. If the request is so made, it shall be considered by the trial Court, considering its docket.

(iv) The copy of the order shall be placed before the learned trial Court, who shall take note of the aforesaid facts and shall note the same in the roznama."

2. The Trial Court shall file on record the report as regards the steps taken by the parties and the District Judge-1 and Additional Sessions Judge, Nagpur to comply the order on or before 24/04/2024.

3. Registry to ensure that the report is received by next date."

2. The learned Sessions Court states that certain applications are pending and without disposal of those applications, the charge cannot be framed. Learned Judge has expressed his inability to decide the applications on the ground that the defence is not co-operating.

3. The learned Judge ought to have decided, pending applications, in one way or the other, whether or

not the defence co-operate. The Court ought to be in command of the matter. The ground that defence is not co-operating is not acceptable.

4. The Court shall accordingly, decide the pending applications and make sincere efforts to comply the order passed by this Court on 28th February, 2023.

5. The counsel for applicant submits that he will make a request before the Sessions Court for expeditious disposal of the trial in terms of order dated 28th February, 2023 passed by this Court. He is at liberty to do so.

6. The learned Counsel, at this stage, on instructions, seeks permission to withdraw the application and to approach this Court again in terms of order dated 28th February, 2024.

7. Permission is granted.

8. Application is disposed of as withdrawn.

(ANIL L. PANSARE, J.)