



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3647 OF 2012

Dr Anees Ahmed Shafique Ahmed and .. Petitioners
Anr.

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr. Yogesh Rawool a/w. Mr. Nitin Bhoir i/b Mr. S. S. Redekar for the
Petitioners.

Ms. M. M. Deshmukh, A.P.P. for the State/Respondent.

Mr. Rishabh B. for the Respondent No.2.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 03rd DECEMBER, 2024**

P.C:-

1. The petition filed in the year 2012 revolving around an FIR filed in the year 2010 came to be dismissed in default and on 26/11/2024 it was restored to its file, since we found sufficient justification for its restoration.

We directed listing of petition on 13/12/2024 on supplementary board with clear understanding that the petition shall be heard on the next date for hearing.

2. Today the counsel for petitioner informed us that petitioner No.1 has passed away and petition is now being only pursued by

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petitioner No.2.

As far as learned counsel for respondent No.2 is concerned, he informed the Court that he has no instructions.

3. In an attempt to ascertain factual position prevailing as on today, we asked Mrs. Deshmukh, learned APP about the progress of the investigation, and we are informed by her that investigation is almost complete.

When we put certain queries in this regard, she is unable to respond since Mr. Avinash Babulal Mandale, the Investigating Officer who is to impart necessary instructions, is not present and the Mr.Vilas Nana Kothe, PSI present in the Court has informed that the Mr. Mandale, is absent, since he has been entrusted with *bandobast* duty in Talasari.

We fail to understand as to how an officer can miss the hearing of the Court if it was directed by the Court that the petition shall be heard finally on a particular date and if he was entrusted with any other duty, he should have equipped other subordinate officer or his Associate with necessary instructions so that the matter would have proceeded.

4. It is not uncommon that very less weightage is given by the Police Officers to the Court proceedings, as they are busy in other duties. We are sensitive to the fact that law and order is an important sovereign task which is entrusted to the Police Department but since they are also investigating officers in several crimes and are respondents in various proceedings filed before the Court, without their instructions or cooperation and in their absence proceedings cannot leap forward, as we never intend to have one sided decisions based upon the pleadings in the petition and expect

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an appropriate response from the respondents, the investigating officers, or the party who face certain allegations.

5. In case like this which is pending before this Court for more than a decade, we do not think we are unjustified in asking officers to render their cooperation, since we are also under the pressure of disposing of the petitions at earliest and in case like this where the FIR is filed in the year 2010 and during the pendency of the petition, even petitioner No.1 has passed away, we found justification in directing that the petition shall be taken up for final hearing. However we find that on account of the absence of the concerned officer we are not able to take up the petition further.

With great difficulty Petitions are listed before us but on account of heavy burden upon this Court, where we are required to finally hear criminal appeals as well as take up routine matters like grant of bail deal with parole and furlough applications which focus upon liberty of the citizens, various matters take back seat. However when we assign specific date we expect cooperation from all, which include the prosecuting agency and investigating officers also.

Today, just in absence of proper instructions being imparted to learned Prosecutor, we are required to adjourn the proceedings and we feel that it is nothing but sheer wastage of judicial time, as the entire judicial system is aware as to what steps are required to be taken for listing of a proceeding before the Court and what is its costs.

6. We deprecate the approach of the police officers/investigating officers in giving last priority to the orders passed by this Court, and when we expect their cooperation, so that the Court can arrive at just decision.

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For wasting precious time of the Court by getting proceedings adjourned, only at the instance of the officer, who is not present or has not instructed the APP, we deem it appropriate to impose cost of Rs.20,000/- on the Respondent/State of Maharashtra and we leave it to the State Government to recover the cost from the officer who is responsible for dereliction of his duty in not attending the proceedings on the due date. It is open for the State Government to recover cost from the person who has entrusted the officer with *bandobast* duty, despite being aware of the fact that important matter is listed before this Court and matter was required to be adjourned in absence of the said officer.

We expect the concerned officer to remain present before us on **9/12/2024** with necessary papers.

The cost, shall be deposited with the Police Welfare Fund, within period of one week.

Renotify to 09/12/2024.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)