



**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 .. Respondent

**WITH
INTERIM APPLICATION (ST) NO.25492 OF 2024
IN
CRIMINAL WRIT PETITION NO.3647 OF 2012**

Mr.Yogesh Rawool a/w S.S. Reeekar, Mohini Thorat for the petitioner.

Mr. Santosh Pawar a/w Farhad Panthaki for respondent no.2.

Ms. M.M. Deshmukh, APP for the State.

Mr.Avinash Mandale, P.I. Avinash Mandale, Kasa Police Station.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 9th DECEMBER, 2024**

P.C:-

1. When we expressed our disinclination to entertain the petition, which seek quashing of the subject FIR, the learned counsel for the petitioner seek permission to withdraw the same.

Needless to state that upon the petition being withdrawn, the Investigating Officer is at liberty to proceed with the investigation and complete the same expeditiously since the FIR is filed in the year 2010, but because of the intervention of the Court since it was stayed, the investigation could not progress.

Ashish

2. Interim Application (St) No.25492 of 2024, the present application is taken out by the State seeking recall of the cost of Rs. 20,000/- imposed upon the State Government, and directing the cost to be recovered from the officer who is responsible for dereliction of duty in not attending the proceedings on due date.

3. The recall of the order is supported by an explanation, that though the order was communicated to Kasa Police Station on 2/12/2024, the concerned officer Mr. Avinash Mandale (Investigating Officer, in C.R. No.66 of 2010) was assigned the special bandobasta for maintaining law and order as the land was being acquired for the prestigious project of Mumbai- Vadora National Highway at Mauje Kochai, Taluka- Talasari, District Palghar. A team of police personnel according to the affidavit was assigned and this included the present officer along with 2 Deputy Superintendent of Police, 3 Police Inspector, 7 Assistant Police Inspector/ Sub Inspector, 125 Policemen, 80 Police women, 50 Policemen, 10 Policemen of Striking Force of Jawahar.

The affidavit proceeds to state that it was very important to assign the officials on the spot, since a serious law and order situation was apprehended and because of this bonafide reason, since he was assigned with the duty as a part of the said squad, he could not remain present.

4. We are not oblivious to such situations and the difficulty expressed, but we had clearly expressed in our order dated 3/12/2024, that the Court proceedings are given the last priority and what we expect is atleast the officer who is going for duty, to explain the case and circumstances or make his subordinate or the officer attending

Ashish

the Court proceedings aware of the necessary facts or instruct him to offer assistance to the Court. If the officer was posted on duty, nothing prevented him from explaining the stand of the State Government to the officer who was present in the Court, who obviously came without any instructions.

It is on very rare occasion we direct the presence of a particular police officer, and even in this case we did not direct the presence of Mr. Avinash Mandale himself, but expected the necessary instructions being imparted to the learned APP, since a Criminal Writ Petition of the year 2012 was being taken up for hearing, and we wanted to decide the same, and a clear indication was given that the petition would be heard finally.

Though the counsel for the petitioner as well as the counsel for the private respondent, were ready to proceed with the petition, the learned APP had no instructions. Despite our specific noting in the order dated 26/11/2024, for listing of the Writ Petition on 3/12/2024, with an understanding that the petition shall be worked out on the next date of hearing, the directions equally applied to the prosecution side also.

We expect the Police Officers to be conscious of the pressure under which the Court functions and when we have the petitions pending for more than one decade, staring at us, we feel sorry for the litigants as we are unable to deliver speedy justice to them. But when we attempt to do so, if the prosecution creates an hindrance in our endeavor, we cannot help but impose cost on the officer, who is responsible for the delay.

Ashish

Though it was never an intention to direct presence of a particular officer, the minimum courtesy which was demanded, was any officer should have remained present with the papers, so that the learned APP could have been looked into the same and would have been able to answer the query, which we had put to the learned APP, but because she was unequipped with the instructions, we were left with no other alternative than to adjourn the proceedings to the next date and the cost is imposed for this reason.

Ms. Deshmukh, the learned APP attempted to canvas before us that hereinafter the Director General of Police of Maharashtra, will publish a circular so that all the Police Officers take the Court proceedings seriously and give it a priority over other works, we must clarify that we do not intend to convey that if there is a grave law and order situation or a similar contingency, still the officers would attend the proceedings, but the least we expect is some other officer who is deputed to attend the proceedings is instructed by him. Let the Director General of Police issue a circular to that effect, so that we are not constrained to impose cost on the next occasion.

Interim Application (ST) No. 25492 of 2024 is dismissed.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)

Ashish