

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 1798 of 2015**

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SANDIP KISHANSINH YADAV

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:

MR BM MANGUKIYA(437) for the Applicant(s) No. 1

MS BELA A PRAJAPATI(1946) for the Applicant(s) No. 1

DS AFF.NOT FILED (N) for the Respondent(s) No. 2

MS MD MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 17/02/2022****ORAL ORDER**

1. Heard learned Advocate Ms.Bela Prajapati appearing for learned Advocate Mr.Mangukiya on behalf of the applicant and learned APP Ms.Mehta for the respondent State.
2. It appears that via an order dated 25.3.2015, learned Coordinate Bench of this Court had been pleased to issue notice to the respondents. It also appears that the respondent No.2 was to be served through the Investigating Officer. Learned Coordinate Bench, vide an order dated 13.4.2015, had *inter alia* directed that copies of the petition should be supplied, failing which the petition should be dismissed for default. It further appears that as of now there is no clarification as to whether the notice has been served upon the respondent No.2 or not.
3. Learned Advocate Ms.Prajapati would submit that since the petition having not been dismissed for default till date, adverse inference could not be drawn, that the copies as directed by this Court vide order dated 13.4.2015 were already supplied.

4. At this stage, learned APP, upon instructions of this Court, has supplied the status of the trial with regard to Criminal Case No.1100314 of 2016 pending before learned Additional Chief Metropolitan Magistrate, Ahmedabad. The status shows that the Criminal Case is pending for process to be served to the accused from the year 2015 till date. It is shocking and painful to note that while this Court had not granted any interim relief in favour of the applicant herein, yet trial arising from the complaint impugned has not proceeded any further for almost six years, merely because process could not be served upon the accused.
5. Having regard to the observations made herein above, let notice be issued to the respondent No.2 returnable on 24.3.2022. Respondent No.2 shall be served directly by the present applicant. Insofar as the trial is concerned, the Registry is directed to call for explanation from the learned Additional Chief Metropolitan Magistrate, Court No.11, Gheekanta, Ahmedabad as to what action had been taken from the year 2015 till date for serving the process upon the accused and if the process could not be served, then what further actions have been taken as envisaged under the law. If no action has been taken, then the learned Additional Chief Metropolitan Magistrate, Ahmedabad shall also explain why such action has not been taken as yet. Such report shall be called for on or before the returnable date.

V.V.P. PODUVAL

(NIKHIL S. KARIEL,J)