

**(2012) 04 BOM CK 0132**

**In the Bombay High Court**

**Case No : Criminal Writ Petition No. 22 of 2012**

Ko-Expo Consultants

APPELLANT

Vs

M/s M. C. Shah, Prop. Manukant Chhanalal Shah,  
Represented by his power of Attorney, Mr. Rameshchandra  
Ishwarlal Joshi

RESPONDENT

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**Date of Decision : 27-04-2012**

**Acts Referred:**

**Citation : (2012) 04 BOM CK 0132**

**Hon'ble Judges : F.M. Reis, J**

**Bench : Single Bench**

**Advocate :** Gaurish Agni, for the Appellant; Sameer Taleigaokar, Advocate for the respondent No. 1 and Mr. C. A. Ferreira, Public Prosecutor for the respondent No. 2, for the Respondent

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## **Judgement**

F.M. Reis, J

1. Heard Shri G. Agni, learned Counsel appearing for the petitioner, Shri S. Taleigaonkar, learned Counsel appearing for the respondent No. 1 and Shri C. A. Ferreira, learned Public Prosecutor appearing for the respondent No. 2. Rule Heard forthwith by consent of the learned Counsels.

2. The learned counsels appearing for the respective respondents waive service.

3. The above petition challenges an order dated 8.2.2012 passed by the learned J.M.F.C., Ponda, in Criminal Case No. 70/OA/2011/A whereby an application filed by the petitioner to cancel the Non Bailable Warrant issued against the petitioner for not appearing before the learned Magistrate came to be dismissed.

4. During the course of the hearing of the above petition, the learned Counsel appearing for the petitioner has produced a medical certificate from the doctor from Gujarat which inter-alia states that the petitioner has suffered from Chronic Lymphocytic Leukemia (blood cancer) since year 2004 and she has suffered from diabetes incapacitating from moving around and she is not in a position to travel.

The said medical certificate has been filed along with some medical reports of the petitioner. The learned Counsel appearing for the respondent No. 1 does not dispute the correctness of the said certificate but however points out that the petitioner is supposed to comply with the directions issued by the learned J.M.F.C., with regard to the execution of the personal bond and other requirements in accordance with law.

5. Considering the facts and circumstances of the case and taking note of the said medical certificate which has not been disputed by the learned Counsel appearing for the respondent No. 1, I find that at this stage, the Non Bailable Warrant issued against the petitioner by the learned J.M.F.C., deserves to be quashed and set aside. It is made clear that the petitioner shall comply with the directions issued by the learned J.M.F.C., with regard to the execution of the personal bond and other requirements referred to in the impugned order in accordance with law. Subject to the above, I pass the following :

#### ORDER

(i) The impugned order dated 08.02.2012 passed by the learned J.M.F.C. Ponda, to the extent it refuses to cancel the Non Bailable Warrant issued against the petitioner is quashed and set aside. The petitioner shall comply with the other directions referred to herein above in accordance with law.

(ii) Rule is made absolute in above terms.

(iii) The petition stands disposed of accordingly.