

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3641 OF 2015

AND

CRIMINAL APPEAL NO. 553 OF 2015

(Vishnu Asaram Rathod Vs. The State of Maharashtra)

Mr. Y.B. Bolkar, Advocate for the applicant/appellant

Mr. U.S. Mote, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 26/08/2015

ORAL ORDER :

1. Heard.

2. Upon hearing, learned counsel for the applicant, on instructions, submits that the applicant does not wish to press the present application. However, since the applicant would be in jail, he submits, as and when the private paperbook would be submitted by the applicant/appellant, the appeal may be heard.

3. In the circumstances, at the request of learned counsel for the applicant, the present application is allowed to be withdrawn. Upon submission of private paperbook by the appellant, the appeal be listed for hearing.

4. Criminal Application accordingly stands disposed of.

5. One disturbing factor, however, is required to be taken note of and action is required to be taken by this appellate Court.

. The reading of the papers as well as the impugned judgment would show that P.W. 5 – Vilas Dinkar Nikam, Police Inspector, who was attached to Jintur Police Station during the period of the incident i.e. 3rd August, 2011, was grossly negligent or has deliberately manipulated the record of the case. He (P.W.5) stated before the learned Sessions Judge, Parbhani, that he has recorded the supplementary statement as against the record. Above all, he has placed the injury certificate in the chargesheet and cited P.W. 3 – Dr. Girish Gupte as a witness.

. P.W. 3 – Dr. Girish Gupte has categorically deposed that he is not the author of the said injury certificate. This exercise of inserting irrelevant document or not placing the relevant document like the injury certificate on record, by a responsible Officer

like a Police Inspector calls for interference by this Court.

6. In the circumstances, issue notice to P.W. 5 - Vilas Dinkar Nikam, Police Inspector, who was attached to Jintur Police Station at the relevant time, returnable on 9th October, 2015, directing him to file an affidavit in this Court, explaining all the above facts.

7. Besides the above action, the Registry of this Court is directed to send a copy of the impugned judgment dated 26th March, 2015 delivered by the learned Sessions Judge, Parbhani in S.T. (UTP) No. 91 of 2012 alongwith copy of this order, to the Inspector General of Police, Maharashtra State, drawing his attention to all the above facts and directing him to submit a report about the action either taken or proposed to be taken against the erring Official, on or before 9th October, 2015.

8. Stand over to 9th October, 2015 for compliance.

[M.T. JOSHI]
JUDGE