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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 463 OF 2015**

Dr. Jagdish Gotur ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Ashish S. Chavan for the applicant.

Ms G.P. Mulekar, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 15, 2015**

P.C.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The applicant is practicing consultant physician and practicing at Bhagwati Hospital as well as KEM Hospital. He is facing trial for the offence punishable under section 465, 467, 468, 471, 406 and 420 read with 34 of Indian Penal Code. There are three other accused namely Jaiprakash Narayan Patil, Anil Narayan Patil and Uday Dharmadhikari. Jaiprakash and Anilkumar Patil are brothers and they are sons of deceased Narayan Patil. The accused Dharmadhikari is a chartered accountant.

3. The alleged forged document in this case is the will of the deceased Narayan Patil by which he has bequeathed certain property to the wife of accused no. 2 Anil Patil and children of accused no.1 Jayprakash

Patil. This will is signed by the accused Dharmadhikari as attesting witness. There is medical certificate attached to the will indicating that the deceased was in fit condition to make the will at the time when the will was made by him.

4. The prosecution case is that the applicant had shared the intention of the other accused and offence of forgery and cheating has been committed in furtherance of common intention of the applicant and the other accused.

5. The Government Document Examiner was not able to give any definite opinion about the signature on the will. However, the Private Document Examiner has given opinion that the signature stated to be signature of Narayan Patil do not belong to him. This opinion is given on the basis of examination of the signature in question and the natural signature of the deceased available with the complainant. The complainant is a sister of accused no. 1 and accused no. 2.

6. As far as applicant is concerned, I do not find any material against him to show that he had shared the intention of accused nos. 1 and 2. Without going into the merits of the case against accused nos. 1 and 2 what the respondents were under obligation to demonstrate was that the alleged forgery and cheating on the part of accused nos. 1 and 2 was committed in furtherance of common intention of the applicant also. Except the fact that the applicant had given medical certificate in his capacity as physician, there is no material to connect the applicant with the alleged crime.

7. Such prosecution cannot be allowed to continue. It becomes imperative for this court to intervene and exercise its powers under section 482 of Code of Criminal Procedure and quash the said proceedings.

8. The order dated 24.3.2015 passed by the learned Metropolitan Magistrate of 26th Court, Borivali, Mumbai is set aside as far as the applicant is concerned. The applicant stands discharged of all the offences alleged against him in Criminal Case C.C. No.779/PW/2009. His bail bonds shall stand cancelled.

(JUDGE)