

SS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3292 OF 2014

Nelson Albert D'Cruz, Partner of
M/s. Sweet Angel Home Builders and ors.Petitioners
versus
State of Maharashtra and ors.Respondents

Mr. A. P. Mundargi, senior counsel along with Mr. S. V. Marwadi i/b. Ms.
Mallika A. Ingale, advocate for the petitioners.
Mrs. U. V. Kejriwal, APP for the State.

**CORAM : RANJIT MORE &
M. S. SONAK, JJ.**

DATED : 4th AUGUST, 2015.

P.C.:

Heard Mr. Mundargi, learned senior counsel for the petitioners
and Mrs. Kejriwal, learned APP for the State.

2. The petition is filed under Article 226 of the Constitution of India for quashing the FIR bearing CR No. 273 of 2014 registered with Amboli Police Station, at the instance of respondent No.4, for the offences punishable under Section 353 read with Section 34 of the Indian Penal Code, 1860.

3. We have heard learned senior counsel and learned APP appearing for the respective parties and also have perused the FIR. The

FIR discloses that notice under Section 149 of the Code of Criminal Procedure, 1973, was issued to the petitioners and one Mr. Sameer Chandiwalla, in view of the dispute regarding the land in question. The FIR discloses that earlier on 4th July, 2014, unauthorized construction in respect of the land in question was removed by the Municipal Corporation. It further discloses that the petitioners and Sameer Chandiwalla, both registered cases against each other. The police apprehended breach of peace and, therefore, issued notices under Section 149 of the Code of Criminal Procedure, 1973. Despite Bandhobast duty by the Police, in respect of the land in question, the petitioners pasted posters on the front and back-side glasses of the Scorpio car. The posters mentioned that the land belonged to M/s. Sweet Angel Home Builders.

4. Mr. Mundargi submitted that there is no question of breach of notice under Section 149 and no offence is made out under Section 353 of the Code of Criminal Procedure, 1973. We do not agree with the submission. Despite warning, the petitioners pasted those posters on the glass of Scorpio car which was parked on the land in question. Prima-facie, the act of the petitioners, therefore, is covered by the provisions of Section 353 of the Indian Penal Code, 1860. Learned APP submits that the investigation of the case is already completed and charge-sheet is ready. Thus, the petitioners have an alternative efficacious remedy to

file discharge application before the trial court. We are, therefore, not inclined to entertain the petition. The petition, accordingly, stands dismissed.

(M. S. SONAK, J.)

(RANJIT MORE, J.)