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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 3769 of 2014.

Zahid Hussein Khan

..Petitioner.

Vs

The State of Maharashtra & (4) Ors

..Respondents.

Mr Prakash Naik i/by Mr V.V.Salunkhe, Advocates for the
Petitioner.

Mr A.S. Shitole, APP for the State.

Mr R.V. Pai a/with Ms N.N. Thakkar for Respondent No.2.

CORAM : A.R.JOSHI,J

DATE : 17th APRIL, 2015

P.C. :

- 1) The petitioner and the respondents are present in the Court represented by their respective Counsel.
- 2) Heard rival submissions sometime on this criminal writ petition.
- 3) Both the parties have agreed through their respective Counsel that the impugned order dated 30th November, 2012 and the another order dated 5th March, 2013 which were passed by the M.M. Court No. 12, Bandra, Mumbai can be set aside by consent. It is further submitted by both the Counsel appearing on behalf of

the rival parties that the parties are ready and agreeable to continue with the original complaint which was dismissed, thus, discharging the original accused vide order dated 30th November, 2012 in CC No. 11/SW/2010.

4) The learned Counsel further stated that in view of the rejection of the earlier complaint and the rejection of the application of the original complainant regarding restoration of such rejected complaint, fresh complaint was lodged by the present petitioner original complainant. It is further brought to the notice of this Court that said further complaint is now pending before the same J.M.F.C. Court. By consent, both the parties have agreed that the first complaint bearing No. 11/SW/2010 is to be revived and the parties will proceed further with the said matter in accordance with law and in that eventuality the second complaint i.e. No. 81/SW/2013 shall not survive.

5) In view of the above understanding arrived at between the parties, as stated by their respective Counsel, the present writ petition is allowed with the following directions:-

- (a) The impugned orders dated 30th November, 2012 and 5th March, 2013 are hereby quashed and set aside;

- (b) Original complaint bearing No. 11/SW/2010 is restored to the file of JMFC, 12th Court, Bandra, Mumbai for proceeding further with the said matter, in accordance with law;
 - (c) In view of restoration of the original complaint, the second complaint bearing No. 81/SW/2013 does not survive and the same is accordingly quashed. The learned Trial Court shall deal with the first complaint in view of the above directions, in accordance with law;
 - (d) The complainant and the respondents-original accused shall remain present before the concerned Court on 10th June, 2015;
 - (e) Needless to mention that the Trial Court shall deal with the said first complaint and dispose it off, as expeditiously as possible.
- 6) The writ petition is disposed of in above terms.

(A.R.JOSHI, J.)