

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4240 OF 2014

Kamal Chamanlal Saigal .. Petitioner

v/s.

The State of Maharashtra & Anr. ..Respondents

Mrs. Prabha V. Badadare for the petitioner
Mrs. M.M. Deshmukh, APP for respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 11th AUGUST, 2015.**

P.C.

1. Heard learned Counsel for the petitioner and Mrs. Deshmukh, learned APP for the State.

2. This petition is filed under Article 226 of the Constitution of India for quashing and setting aside FIR baring C.R. No.61 of 2014, registered with Bandra (W) Police Station, Mumbai against the petitioner for the offence punishable under Section 188 of the IPC.

3. The said FIR is registered at the instance of one Prakash Ganpat Ahire, a police head constable on the allegation that the petitioner rented out his room to one Ms. Sakshi Pandey on 01.02.2014 without informing particulars of the said tenant to the Senior Police Inspector, within whose jurisdiction the room is situated.

4. Learned Counsel for the petitioner submits that the petitioner proposed to rent the said room to said tenant Sakshi Pandey and accordingly by letter dated 12.10.2013 gave intimation to the Senior Police Inspector. However, the said proposal did not materialized and the advance deposited by the tenant was given back to said Sakshi Pandey. Learned Counsel for the petitioner relied upon a copy of intimation dated 12.10.2013 and the letter dated 01.02.2014 acknowledging receipt of deposit amount of Rs.12,600/- by the tenant Sakshi Pandey. She submits that, therefore, no offence is made out.

5. Mrs. Deshmukh, learned APP having taken instructions, placed on record a copy of the order issued by the Deputy Commissioner of Police (Operations) and Executive Magistrate, Greater Mumbai under Section 144 of the Cr.P.C. She submits that intimation dated 12.10.2013 is not received by the Senior Police Inspector of the concerned Police Station and, therefore, no interference is required in the petition.

6. Having considered the rival submissions and having gone through the petition and annexures thereto, we find that under the said order, no landlord of any property which falls within the jurisdiction of Mumbai Police Commissioner shall let / rent out any accommodation to any person unless and until he has furnished the particulars of the said tenant/s to the concerned Senior Police Inspector, within whose jurisdiction the premises if located. The intimation dated 12.10.2013 given by the petitioner to the Senior Police Inspector, annexed at page 14 to the petition shows that the information about the proposal to rent out room

was given by the petitioner to the Senior Police Inspector, Bandra (W), Mumbai. Learned APP makes a grievance that this intimation was not given to the concerned police station. However, learned Counsel for the petitioner has relied upon the postal receipt, copy of which is tendered in the Court. The acknowledgment shows that the copy of the intimation is sent to the Senior Police Inspector, Bandra (W) by Speed Post. Learned Counsel for the petitioner has also tendered copy of the letter dated 01.02.2014 written by the tenant Sakshi Pandey. The said letter shows that the petitioner has refunded the deposit amount to the tune of Rs.12,600/- to the tenant and that the tenant has no objection against the petitioner in this regard. Even otherwise, mere disobedience of the order under Section 144 of the Cr.P.C. would not attract Section 188 of the I.P.C. unless the person knows his disobedience produce or is likely to produce harm. The FIR does not disclose the alleged ingredients so as to attract Section 188 of the IPC.

7. Under the circumstances, no offence is made out. The Writ

Petition is made absolute in terms of prayer clause (a). the FIR No.61 of 2014 registered with Bandra (W) Police Station, Mumbai against the petitioner is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)