

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4419 OF 2013

Nanda Prakash Mane	... Petitioner
v/s	
State of Maharashtra and anr.	... Respondents

Shri Rohan Nahar for Petitioner.
Smt A.S. Pai, APP for State.
Shri Rajdeep S. Khadapkar for Respondent No.2 (Original Complainant).

**CORAM : SMT V.K. TAHILRAMANI &
SHRI B.P. COLABAWALLA JJ.**

DATE : 17TH MARCH 2015

P.C.:

1. Heard learned counsel for the petitioner, learned APP for the State and the learned counsel for the respondent No.2 (original complainant).

2. The petitioner - original accused has preferred this petition for quashing of C.R. No.127/2013 registered at Vishrambaug Wada Police Station, Pune. The said C.R. is under section 420 read with 34 of IPC and section 7 of the Maharashtra

Educational Institutes (Prohibition of Capitation Fee) Act 1987.

3. The case of the prosecution was that the petitioner being the Principal of Nutan Marathi Vidyalay, Shaniwar Peth, Pune, had taken some amounts by way of donation from the parents of students who were seeking admission or had already got admission in the school. The learned APP, on instructions from the Investigating Officer Shri Santosh B. Patil, PSI, Vishram Baug Police Station, Pune City, states that the Police have investigated the matter and they have found no material to file a charge-sheet. Hence, they are filing summary to that effect before the learned Magistrate.

4. The learned counsel for the complainant, on the other hand, states that there is material to file a charge-sheet. In view of the fact that above mentioned summary report is being filed by the investigating agency before the learned Magistrate, it is settled law that the complainant would be heard before decision is taken by the learned Magistrate in relation to said summary report.

5. The learned counsel for petitioner states that he does not wish to prosecute the petition in view of the statement made by the learned APP and he seeks leave to withdraw the petition at this stage with liberty to file a fresh petition at a later stage if found necessary.

6. In view of the above, writ petition is allowed to be withdrawn with liberty as prayed for.

(SHRI B.P. COLABAWALLA, J.) (SMT V.K. TAHILRAMANI J.)