

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

CRIMINAL WRIT PETITION NO. 4253 OF 2012

Raghunath Shankar Patil

... Petitioner

vs.

The State of Maharashtra and anr.

... Respondents

Mr. Ajay L. Bhise i/by Ms. Babita Pandey, Advocate for the petitioner.

Mr. Deepak Thakare, Additional Public Prosecutor for the State.

Coram : Smt. R. P. SondurBaldota, J.

Date : 3rd February, 2016.

P. C. :

1. The petitioner is the first informant in C. R. No.8 of 2006 filed on 3rd July, 2006 under Sections 4 and 7 of the Lotteries Regulation Act, 1988. Respondents No.3 to 28 were arrested on various dates in the crime registered. In due course charge-sheet was filed. On 30th April, 2010 the prosecution filed application under Section 321 of Criminal Procedure Code for withdrawal of the prosecution. By a detailed order passed on the same day, the trial Court allowed the application. The trial Court noted that the lucky-draw scheme conducted by the respondents i.e. trustees of Warana Shikshan Sanstha and distribution of

prizes did not constitute an offence punishable under Section 4 and 7 of the Lotteries Act. This finding had been arrived by the trial Court in view of the material produced by the respondents of the account extract and the Constitution of the Trust under which the trust could collect subscription, donation, gifts, prizes and awards. The respondents had conducted lucky-draw scheme for raising funds for construction of the building of the college run by it. The Government had accepted that as a social work. Therefore, there was no mens rea and the Government was not interested in prosecuting the case. The trial Court also took note of the fact that the proceeding had been pending in the Court since the year 2006 and no effective steps had taken by the Government to proceed with the matter.

2. Being aggrieved by the order of the trial Court, the petitioner had approached the Sessions Court by way of Criminal Revision No. 20 of 2011. The Sessions Court dismissed the revision application recording its satisfaction that the production of the accounts of coupons in the lucky-draw, the allegations as regards non-maintenance of the accounts was taken care of. Besides as per the bye-laws of the Constitution of the Trust, it is permitted to collect donation, contributions etc. for the funds of

the trust. The bye-laws also provide for collection of funds by running a scheme of lucky-draw. The Sessions Court further noted that the lucky-draw run by the respondents was not for their personal gain but was with a view to raise funds for the construction of the building of the college.

3. Heard Mr. Bhise, the learned advocate for the petitioner. He is not been able to point out any infirmity in the concurrent view taken in the orders impugned in the petition. It is patent that the view taken is the proper and correct view and does not require any interference. The writ petition is dismissed.

[Smt. R. P. SondurBaldota, J.]