

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.696 OF 2015

Mr. Shirish Gupte, Senior Advocate with Mr. Subodh Desai and Ms Swati Pandit, Mr. Mangesh Bhole i/b Mulla and Mulla & C.B.C. for the Petitioners
Mr. K.V. Saste, APP for the respondent No.1
Mr. Mayuresh S. Lagu for respondent No.2

ORAL JUDGMENT: (PER A.S.OKA, J.)

3 The first information report was lodged by the
Designated Officer of the Ward No.6 of the Mira

Bhayander Municipal Corporation. The allegation is that an electric sub station has been erected by the Tata Power Company Limited without obtaining permission in a No Development Zone. The petitioner Nos.1 to 4 are the employees of the said company and the petitioner No.5 is the Contractor appointed by the said company.

4 The learned counsel for the respondent No.2-The Commissioner of Mira Bhayander Municipal Corporation has tendered across the bar a compilation of documents containing a copy of permission dated 20th July 2016 granted by the said Corporation to the Tata Power Company Limited for construction of the sub station subject matter of the FIR. It appears that the Executive Engineer of the said Municipal Corporation submitted a proposal for informing the police not to proceed further on the basis of the FIR in view of subsequent grant of permission. We find from the compilation that on 20th July 2016 the Commissioner of the said Corporation granted his approval to the said proposal. Accordingly, on 19th September 2016, the Executive Engineer has informed the Law Officer of the Municipal Corporation to submit a necessary letter to the police. The learned APP on instructions states that said letter is already received.

5 Under sub-section 1 of section 143 of the MRTP Act, the offence under section 52 is compoundable at the instance of the Planning Authority. The Mira Bhayander Municipal Corporation is the Planning

Authority within the meaning of the MRTP Act. The commissioner of the said Corporation is authorized to compound the offence.

6 Hence, the petition must succeed and we pass the following order:

(I) Rule is made absolute in terms of prayer clause(c) which reads thus:

"(c) Quash and set aside the registration of FIR No.1106/2015 lodged at the instance of Kashimira Police Station against the petitioners."

(II) All concerned to act upon an authenticated copy of this order.

(A.A.SAYED,J.)

(A.S.OKA,J.)