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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.943 OF 2016

Deepak Diip Patil

..Petitioner.

V/s.

Santosh Tukaram Kamble and Anr.

..Respondents.

Mr.Ganesh Bhuzbal for the petitioner.

Mr.A.M.Misal for respondent No.1.

Mrs.S.D.Shinde, APP for respondent-State.

**CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.**

DATED : 18TH MARCH, 2016

P.C. :-

1. Heard learned counsel for the petitioner and respondent No.1 and learned APP for the Stat.

2. The petitioner-accused prays for the following reliefs:-

“(a) This Hon'ble Court be pleased to quash and set aside the proceedings in Sessions Case No.68 of 2014 pending before the Ld. Addl. Sessions Court,

Dindoshi, Mumbai arising out of C.R.No.466 of 2013 registered with the Respondent No.2 for the offence punishable u/s.376, 312, 420 of IPC.

- (b) Pending hearing and final disposal of this petition, all further proceedings in Sessions Case No.68 of 2014 pending before the Ld. Addl. Sessions Court, Dindoshi, Mumbai arising out of C.R.No.466 of 2013 registered with the Respondent No.2 for the offence punishable u/s.376, 312, 420 of IPC be stayed. ”

3. On a complaint filed by respondent No.1, offence came to be registered with Samta Nagar police station, Mumbai vide F.I.R. No.466/2013 for offence punishable under sections 376, 312 and 420 of Indian Penal Code. After completion of investigation, police preferred to file charge-sheet against the petitioner for the said offences. Case is numbered as Sessions Case No.68/2015 which is pending before the learned Additional Sessions Judge, Dindoshi, Mumbai.

4. At this stage, the petitioner and respondent No.1

have prayed for quashing of the proceedings. Respondent No.1 filed an affidavit before this Court. In paragraph 3, she states as under:-

“ I say that in view of the settlement arrived at both the parties and in the interest of justice, with a view to maintain harmony, the Petitioner has preferred this Petition before this Court under Article 226 of the Constitution of India and u/s.482 of the Code of Criminal Procedure for quashing the proceedings in Sessions Case No.68 of 2014 pending before the Ld. Addl. Sessions Judge, Dindoshi, Mumbai initiated against him at my instance, I have no objection for quashing the said proceeding. ”

5. Learned APP submits that on complaint filed by respondent No.1, the police investigated the offence and have filed the charge-sheet. The offence committed is of serious nature and the learned APP submits that prayer for quashing the proceedings be rejected.

6. Learned counsel appearing for respondent No.1

submits that respondent No.1 has no objection if the criminal proceedings are quashed.

7. We have perused the charge-sheet placed on record and considering the submissions we are not inclined to allow the prayers of the petitioner. The petitioner may take recourse to alternate remedy as is permissible in law. However, we are not inclined to exercise our extra-ordinary jurisdiction in the matter. The petition is accordingly dismissed.

8. All issues on merit are kept open.

(A.M.BADAR, J.)

(NARESH H.PATIL, J.)