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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 138 of 2016
IN
CRIMINAL WRIT PETITION No. 1345 of 2015.

KNK Thampan Panicker ..Applicant.

In the matter of -

Mr Rajit Anand ..Petitioner

Vs

The State of Maharashtra & Anr ..Respondents.

Mr Abhilash Panickar for the Applicant.

Mr Sanjeev Kadam for the respondents no. 1 to 7.

Smt. R.V. Newton, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 27th April, 2016

P.C.

1) Heard the learned counsel for the Applicant and the respondents no. 1 to 7 at length.

2) The present application is filed under Article 226 (3) of the Constitution of India for vacating the interim relief granted by this Court by its Order dated 29.2.2016 passed in Group of Writ Petitions No. 1345/2015, 1346/2015, 1347/2015, 3993/2015, 3994/2015, 3995/2015, 3996/2015, 3997/2015 and 4069/2015.

3) The learned Counsel for the applicant submitted that after the grant of interim relief in the aforesaid petitions by an Order dated 29.2.2016, the applicant has filed the present application and it is not heard finally

within a period of two weeks and, therefore, there is violation of Article 226(3) of the Constitution of India.

The learned counsel for the applicant further submitted that the petitioners herein have not approached this Court with clean hands and have suppressed various documents. He submitted that it is the reason on the basis of which the interim relief granted in favour of the petitioners can be vacated. He further submitted that in case of forgery and other allied offences, the High Court should not grant stay to the trial Court proceedings. He further submitted that the interim relief has been obtained by the petitioners either by misleading this Court or by suppressing the material facts.

4) Per contra, the learned counsel appearing for the petitioners submitted that, after hearing the petitioners at length the predecessor of this Court was pleased to admit the petitions and grant interim relief in terms of prayer clause (c) of the petitions. The applicant herein has filed a false and frivolous complaint before the Trial Court. Being aggrieved by the issuance of process and the filing of the complaint itself, the petitioners have approached this Court under Article 227 of the Constitution of India. He further submitted that though the cause title of the petition mentions Article 226 and 227 of the Constitution of India and/or 482 of Cr.PC, the petition is filed predominantly under Article 227 of the Constitution of India and in view of the same, provisions of Article

226 (3) of the Constitution of India are not attracted in the present case.

5) I have considered the rival submissions and heard the learned counsel for the applicant on the merits of the case for vacating the interim relief. According to me, no case to vacate the interim relief is made out. I find that the interim relief granted by an Order dated 29.2.2016 need not be vacated at this stage.

6) The application being devoid of any merits, is dismissed accordingly.

(A.S. GADKARI, J.)