

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1745 OF 2014

Anwarullah Hakikullah Choudhary .. Petitioner

Versus

State of Maharashtra and Ors. .. Respondents

Mr. E.A. Sasi for the petitioner.

Mr. R.R. Shakh, APP for the State.

CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.
DATE : 24th FEBRUARY, 2016.

P. C. :

1. Heard the learned counsel for the petitioner and the learned APP for the State.

2. By this petition filed under Article 226 of the Constitution, the petitioner is seeking a direction to respondent nos. 1 and 2 to conduct thorough investigation against respondent nos. 3 to 5 and any other police officers found involved in the malicious prosecution arising out of CR I 145 in C.C. No. 31 of 2002 before the Court of learned Judicial Magistrate, First Class Vasai, Dist. Thane. Petitioner is original accused No.4 (shown as accused no. 3 in Regular Criminal Case No. 31 of 2002). The petitioner along with others came to be charged for the offence

under section 457, 380, 411 read with 34 of IPC. Perusal of the record reveals that on the basis of the complaint of one Bhaskar Parekh the offence was registered and after Completion of the investigation, chargesheet was filed under sections mentioned hereinabove. The record further reveals that three witnesses namely the complainant and two other witnesses came to be examined. The complainant do supported the case however, pancha witnesses do not support the prosecution and therefore, the petitioner came to be acquitted for want of evidence. In the present case, the petitioner has sought action against the respondent nos. 3 to 5 who are the police officers. In fact police officers are bound to register the offence if the complaint discloses commission of the cognizable offence. We do not find anything wrong on the part of the police officers in registering the complaint and prosecuting the petitioner. The acquittal of the petitioner cannot be the basis for the action against the respondent police officers. That apart the respondent police officers had acted in good faith and in discharge of their official duty and they cannot be subjected to face the prosecution. Taking over all circumstances into consideration, we find no merit in the petition. The same is accordingly dismissed.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]