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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1759 OF 2016

Shyam Dattaram Dhanavade

.. Petitioner

Vs.

State of Maharashtra and ors.

.. Respondents

Mr. M. K. Mishra for petitioner.

Mr. D. P. Adsule, APP for State.

CORAM: NARESH H. PATIL &
PRAKASH D. NAIK, JJ.

JULY 05, 2016.

P.C.

1. By this petition the petitioner prays for quashing the charge-sheet filed against him vide C.R. No. 72 of 2015 together with the criminal proceeding in the nature of Special POSCO Case No. 68 of 2015 pending in the court of learned Additional Sessions Court, Mumbai.

2. Learned counsel for the petitioner submits that false case has been filed against the petitioner. The petitioner has narrated his version of the story in paras 5(c) and (d) amongst other grounds, which read as

under:-

“5(c) That the petitioner has lost his wife's Nokia mobile having Model No. 1161, Mb. No. 8898184090 on 21/7/2014 from his house. After all efforts, he and his family failed to find it. He purchased new Mobile and went to get new Sim card when he was adviced to lodge N.C. he lodged N.C. complaint dated 25/7/2014 for lost of his mobile acceptingly.....

(d) Thereafter on or about 2nd August, 2014, the petitioner's new Sim card of the same mobile No. 8898184090 of airtel Company got activated the old one got blocked. The petitioner's wife received some calls from the girls named Geeta Lokhande having her Mobile No. 8149329014, Ankita Sawant having her Mobile No. 8898164220 and Vaishnavi having her Mobile No.9004795340. These girls asked about Respondent No.2 and one enquiry by petitioner's wife they told that Respondent No.2 is their friend and they used to talk with her on the same No. since last many days. Petitioner's wife doubted about how the same No. could be allotted two

person. Petitioner and his wife discussed about their mobile with Respondent No. 2 and her parents and requested them to return his mobile if it is kept with the Respondent No.2. However, the Karishma's Parent flared up to petitioner and his wife and started abusing on the petitioner saying that petitioner is making wrong allegations of theft against her daughter.”

3. Learned counsel for the petitioner placed reliance on reported judgments which are quoted in the body of the petition. It was submitted that the witnesses are interested witnesses as they are related to the complainant. Their statements are not reliable. Learned APP submits that at this stage it would not be appropriate in the light of the material placed on record to quash and set aside the entire proceeding. The petitioner has an alternate remedy to approach the trial court. The petitioner was released on bail on certain conditions. Application for modification of the conditions filed by the petitioner was rejected. The trial court has passed conditional order keeping in view the facts and attending circumstances.

4. We have perused the record placed before us, considered the submissions advanced by the learned counsel for the parties and the

grounds raised by the petitioner for quashing the proceeding. The Investigating Agency collected material and thereafter filed a charge-sheet. The petitioner is already released on bail.

5. In the facts of the case, we are not inclined to exercise our writ jurisdiction or inherent powers to quash and set aside the proceedings. However the petitioner may be at liberty to resort to alternate remedy as permissible in law in approaching trial court in connection with the subject charge-sheet.

6. Petition, therefore, stands disposed of.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL,J.)