

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.642 OF 2016

Sultan Suleman Qureshi & Ors.
V/s

..... Applicants

State of Maharashtra & Anr.

..... Respondents

Mr. Akhil Kupade i/b M/s. Manoj Harit & Co. for the Applicants.
Mr. K.V. Saste, APP for the Respondent No.1/State.
Mr. Sameer P. Nangre for the Respondent No.2.

CORAM : A.S. OKA &
A.A. SAYED, JJ.
DATED : 18 OCTOBER 2016

ORDER:

1 Not on Board. Taken on Board.

2 Heard the learned Counsel appearing for the Applicant. Paragraph 39 of the Writ Petition reads thus:

“39. The Applicant had earlier filed a Writ Petition No.2958 of 2014 for quashing of the FIR No.163 of 2015, which was withdrawn as the Respondent No.1 had filed charge-sheet prior to the hearing of the said Petition. The Applicants have not filed any other Petition in respect of the subject matter of the present application either before this Hon'ble Court or Hon'ble Supreme Court.”

3 The learned APP has produced for perusal of the Court an order dated 22 April 2015 passed in Writ Petition No.2958 of 2014. Clause (1)

of the order specifically records that Advocate for the present Applicant sought permission to withdraw the said earlier Writ Petition with liberty to file discharge Application before the trial Court. With that liberty the Petition was dismissed as withdrawn. The fact that a liberty was granted to file discharge Application is suppressed in this Application. Even a copy of the order passed on 22 April 2015 in Writ Petition No.2958 of 2014 is not annexed to this Application and hence, the said order has been suppressed. The first sentence in paragraph No.39 is misleading as the nature of the order of withdrawal is not set out.

4 Apart from the fact that in view of the said order dated 22 April 2015, the present Application filed for quashing the charge-sheet cannot be entertained, it is well settled that the power of this Court under section 482 of the Code of Criminal Procedure, 1973 has to be used sparingly. Considering the conduct of the Applicant of suppressing material facts, this Application deserves to be dismissed.

5 We dismiss the Application. Considering the suppression of material facts, we direct the Applicants to pay costs quantified of Rs.25,000/- to the State Government within a period of four weeks from today. The Application shall be fixed for reporting compliance on 23 November 2016 under the caption of "directions".

(A.A. SAYED, J.)

(A.S. OKA, J.)