

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.586 OF 2016
IN
CRIMINAL APPLICATION NO.509 OF 2015
IN
CRIMINAL APPLICATION NO.3398 OF 2010

Shri Dashrath Sitaram Patil **Applicant in**
Criminal Application
No.586 of 2010.

IN THE MATTER OF

Mitesh Kirti Shah & Ors. **Applicants**
V/s
The State of Maharashtra & Anr. **Respondents**

Mr. Amol D. Joshi for the Applicant in Application No.586 of 2016.
Mr. D.S. Mhaispurkar for the Applicant in Application No.3398 of 2010
Ms. M.H. Mhatre, APP for the Respondent No.1.
Mr. Prashant Kamble i/b Mr. A.S. Rao for the Respondent No.2.

CORAM : A.S. OKA &
A.A. SAYED, JJ.
DATED : 08 AUGUST 2016

ORDER:

1 This Application is filed seeking the recall of order dated 28 June 2016 passed by this Court in Criminal Application No.509 of 2015. The said Criminal Application No.509 of 2015 was filed by the Applicant in the present Application.

2 The said Application No.509 of 2015 is taken out in Criminal Application No.3398 of 2010. Criminal Application No.3398 of 2010 was

filed by the Applicants therein for invoking section 482 of the Code of Criminal Procedure, 1973 (for short 'CrPC') for quashing the offence registered punishable under section 52 of the Maharashtra Regional Town Planning Act, 1966 (for short 'MRTP Act').

3 The Criminal Application No.509 of 2015 was filed by the present Applicant seeking intervention/impleadment in the main Application under section 482 of the CrPC. This Court rejected the Application by an order dated 28 June 2016 by holding that the Applicant is neither a necessary nor a proper party to the said Criminal Application under section 482 of CrPC.

4 The submission of the learned Counsel appearing for the Applicant is that though the first informant is the Town Planner of the Planning Authority, the notices issued by the Planning Authority under the provisions of the Maharashtra Regional and Town Planning Act, 1966 were at the instance of the Applicant. His submission is that the First Information Report is based on non-compliance of the said notices. He submitted that the Applicants in the main Application under section 482 of CrPC have given certain undertakings.

5 As stated earlier, the Applicant is not the first informant. Hence, the Applicant has no locus in Criminal Application for quashing the

offence. If the grievance of the Applicant is about the inaction of the Planning Authority or its Officer, the remedy of the Applicant is to take out appropriate proceedings in accordance with law. Subject to what is observed above, the Criminal Application is rejected.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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