

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4435 OF 2015
WITH
CRIMINAL APPLICATION NO.247 OF 2016

Chandrashekhar Sadashiv Karkhanis

Petitioner

versus

1. The State of Maharashtra
2. Vivekanand Rock Memorial and
Vivekanand Kendra, Pune.

Respondents

Mr.Nitin P. Dalvi for Petitioner.
Mrs.M.M.Deshmukh, APP, for State.

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

DATE : 22 June 2016

PC :

1. By this petition, the Petitioner seeks quashing and setting aside the charge sheet filed in Regular Criminal Case No.183 of 1999 pending before Judicial Magistrate, First Class, Court No.5, at Pune. The first information report was registered on the complaint made by one Mr.Govind Joshi on behalf of Respondent no.2 herein, for the offences punishable under Sections 420 and 406 of Indian Penal Code. Respondent no.2 is a society registered under the provisions of Societies Registration Act, 1860.

2. Learned counsel for the Petitioner submits that the second Respondent society has become defunct. There is no authorised person to represent the society as Mr.Govind Joshi has since died. Therefore, there is nobody to participate in the criminal prosecution against the Petitioner.

3. The Inspector of Police, Crime Branch, Pune City, submitted report dated 24 February 2016 on the notice issued by this Court stating that the statement of one Kevin Jasmin Shah was recorded on 22 February 2016 wherein it was stated that Govind Joshi, Vivekanand Rock Memorial and Vivekanand Kendra, who was a neighbour of Kevin Shah, had expired and his relatives had left the house since last three years. The statement is annexed to the report.

4. Learned counsel for the Petitioner submitted on merits that in accordance with the Consent Terms dated 10 August 2006 tendered in Special Civil Suit No.1125 of 1999, an amount of Rs.50 lakh was paid by the Petitioner to the Plaintiff in the suit (second Respondent herein). Pursuant to the said consent terms, on receipt of such amount, the second Respondent was to compound the criminal proceedings being RCC No.183 of 1999. Therefore, it is submitted that as the Petitioner had already paid Rs.50 lakh to the second Respondent and as there is nobody to represent the second Respondent in RCC No.183 of 1999, the criminal prosecution in RCC No.183 of 1999 may be quashed.

5. As to whether the amount of Rs.50 lakh was paid by the Petitioner to the second Respondent or not, is a matter of inquiry and evidence. The said issue cannot be considered in this proceeding. A charge sheet has already been filed in RCC No.183 of 1999 and evidence is likely to be recorded. In these circumstances, it would not be appropriate for us to interfere at this stage. The Trial Court would deal with the charges based on the evidence, if led by the parties, and would decide the case before it on its own merits and in accordance with law. With these observations, Writ Petition No.4435 of 2015 stands disposed of.

6. As far as Criminal Application No.247 of 2016 is concerned, the Petitioner-Applicant has sought directions to the passport authorities to renew his passport and he be permitted to travel abroad to meet his relatives. The Petitioner is seeking these reliefs as a complaint is pending against him (RCC No.183 of 1999). Learned counsel for the Petitioner submits that in the past, the Trial Court had passed orders for renewal of passport of Petitioner and allowed him to travel abroad.

7. Without expressing any opinion on the issue of renewal of passport and permission to travel abroad, we grant liberty to the Petitioner-Applicant to file appropriate application before the Trial Court for renewal of passport and permission to travel

abroad. The Trial Court will dispose of such application expeditiously and in accordance with law on its own merits. Criminal Application No.247 of 2016 stands disposed of.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST