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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4454 OF 2013

Dr. Dhansing Amrut Choudhari

.. Petitioner

Vs.

The State of Maharashtra and ors.

.. Respondents

Mr. Manoj Mohite a/w Mr. S. P. Kadam i/by Mr. Sachin K. Hande for
petitioner.

Mr. R. M. Pethe for respondent no.2.

Mr. J. P. Yagnik, APP for State.

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

AUGUST 08, 2016.

P.C.

1. Petitioner seeks quashing and setting aside of FIR No. 3076 of 2013 dated 18/10/2013 registered by the Deccan Police Station, Pune for offence punishable under Section 33(2) of the Maharashtra Medical Practitioners Act. Learned counsel appearing for the petitioner submits that the police filed "C" Summary report in the court of Judicial Magistrate, First Class, A.C. Court, Pune on 19/4/2016. Learned counsel for petitioner, therefore, prays that nothing survives in the petition and seeks leave to withdraw the petition.

2. The request for withdrawal is objected by the learned counsel appearing for the respondent - Pune Municipal Corporation. Counsel submitted that the petition on the earlier occasion was heard at length on merits. One of the officers working in Health Department, attached to Corporation, had given consent for acceptance of summary. The Commissioner of Pune Municipal Corporation has taken serious objection to this conduct of the said officer who gave consent on behalf of the complainant before the court. The Commissioner is of the view that the acceptance of summary is required to be challenged, according to the learned counsel. The counsel further submitted that this court shall take suo motu cognizance and hear the respondent-complainant on the objections which the Corporation proposes to raise against the acceptance of summary. Learned counsel has tendered a communication dated 8/8/2016 made by the Commissioner, addressed to the counsel, which he desires to keep on record. The same is taken on record and marked "X" for identification.

3. In the facts, respondent-complainant has alternate efficacious remedy in case the complainant is aggrieved by the acceptance of the

summary report by the trial court. If advised, complainant may resort to appropriate steps in accordance with law. In view of acceptance of summary report by the trial court, the request made on behalf of the petitioner seeking leave to withdraw this petition requires consideration.

4. Leave is accordingly granted. Petition is dismissed as withdrawn.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)