

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1238 OF 2017

A.R.Sampathkumar	...	Petitioner
Vs.		
Mr. B.S.Garg (klEx-Administrator)		
&Ors.	...	Respondents

Mr. I.S.Prakash – POA – in person present.
Ms. C.Bocarro for respondent Nos. 6 & 7.
Respondent No.2 in person present.
Ms. Pallavi Dabholkar,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 31st March, 2017.

P.C.

Heard respective parties. Rule.

2. The prayers in the present petition are as follows :-

- “(a) *Hon. Court is prayed under Sec.227 to set aside order dated 4-8-2016 by Ld. Magistrate in case No. 33/SW/2010.*
- (b) *Hon. Court is prayed original SHARE CERTIFICATE bearing No.145 (serial no. 1761 to 1776) allotted to Dr. A.R.Gopal-Ayengar by the above society on 31-12-1981 along with the Original SALE-DEED may be directed to produce before this Court.”*

3. As far as prayer clause (a) is concerned, it is an order passed

by the Metropolitan Magistrate, 52nd Court, Kurla, Mumbai, wherein the original accused Nos.1, 3 and 7 are discharged under Section 245 of the Code of Criminal Procedure of the offence punishable under Sections 465, 467 and 471 of the Indian Penal Code.

4. It is pertinent to note that the said order discharging accused Nos.1, 3 and 7 is not challenged either in the revisional Court or in this Court. Upon a query made by this Court, the petitioner appeared in person and has submitted that he is not interested in prosecuting any particular person or any of the accused and, therefore, he is not challenging the discharge of the accused. However, he restricts his petition to prayer clause (b).

5. This is a Writ Petition under Article 227 of the Constitution of India. The powers of the Court under Article 227 are circumscribed. From the submissions advanced across the Bar, it can be inferred that no particular order is being impugned or challenged in this Petition, but the petitioner is seeking a direction that the abovementioned Share Certificate be directed to be produced before this Court. This Court would have no powers to issue any such directions. According to the petitioner, respondent No.1 is in possession of the said Share Certificate and the Sale-Deed and also the nomination. The Court cannot be oblivious of the fact that

respondent No.1 is not an accused in the original proceeding.

6. The learned counsel for respondent Nos. 6 and 7 submits that the respondent No.1 is nowhere in picture. Be that as it may, as on today, no directions can be passed under Article 227 of the Constitution of India and the prayers cannot be granted. Hence, the petition stands dismissed. Rule is discharged.

7. The petitioner is at liberty to seek appropriate remedies before the appropriate authorities.

(SMT. SADHANA S.JADHAV, J.)