

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2589 OF 2014**

Buddhadeo Gadai Ghosh and others ..Petitioners

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. R.B.Paranjpe, i/b. Mr. Ajit Mandlik for the Petitioners.
Mr. Kamlesh Hadkar for the Respondent No.2.
Mr. K.V. Saste, APP for the Respondent/State.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 25TH JANUARY, 2017**

P.C.

1. Heard the learned Counsel appearing for the petitioners and the learned Counsel appearing for the second respondent. The learned APP states on instructions that on 16th December, 2016 chargesheet has been filed against the petitioners.
2. Quashing is sought on the basis of the statement made by the second respondent in his affidavit dated 10th January, 2017. In affidavit he has come out with a peculiar stand. He has stated that

he does not wish to prosecute the petitioners. He has stated that the names of the petitioners have been mentioned in his statement on the basis of which the First Information Report was recorded due to mistake of the Police Officer. According to him, somebody else is the real accused.

3. After setting criminal law in motion, it is not for the first informant to decide who is the offender. It is a matter for the investigation by the police. The statement of the second respondent was recorded on 16th June, 2014. On query made by the Court, the learned Counsel appearing for the second respondent states that till 10th January, 2017, the second respondent never made any grievance in writing that his statement has been incorrectly recorded on 16th June, 2014. Thus, the statements made in the affidavit are clearly by way of an afterthought and cannot be believed.

4. Moreover, quashing is sought on the basis of the statement made by the second respondent that he has no grievance against the petitioners. Now, chargesheet has been filed against the petitioners as police have found material against them. Therefore, this is not a fit case where the extra ordinary jurisdiction of this court can be

exercised. The power under Section 482 of Code of Criminal Procedure, 1973 is to exercised very sparingly. This is not a case where such powers can be exercised on the basis of the statement made by the second respondent in the affidavit. Accordingly, petition is rejected. However, this will not preclude the petitioners from adopting appropriate remedy before the concerned Court.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)