

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 727 OF 2013**

Bijaykumar Banmali Panigrahi ..Applicant
Vs
State of Maharashtra & Anr. ..Respondents

Mr. Amey Deshpande i/b. Mr. J. D. Khairnar for Applicant.
Mr. K. V. Saste – APP for State.
Mr. Jagannathprasad Rajaram Shoke – Respondent No. 2 present in Court.

**CORAM : S. C. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.
DATE : 3RD MAY, 2017**

P.C. :

1] On this writ petition after hearing the petitioner's Advocate, the Division Bench of this Court on 13th August 2013 passed the following order :

- “1. Heard learned Counsel for the applicant.
2. Issue notice to the respondents. Learned A.P.P. accepts notice on behalf of respondent No. 1. Notice of respondent No. 2 returnable on 20th August, 2013.
3. In the meantime, we direct that the Investigating Officer may continue with the investigation but shall not submit a final report without the leave of the Court.
4. Stand over till 20th August, 2013.”

2] This order has been continuing till today.

3] Though such an interim order has been passed what has now transpired and after nearly three and half years and more from the date of this order, is that we are informed by Mr. Saste, learned APP that the prosecution / State has filed a report in the competent criminal court. That report is filed by the 1st respondent stating that the FIR as lodged by the 2nd respondent does not disclose commission of any offence. Thus, 'C' Summary Report has been filed in the competent criminal court.

4] Once such a development has taken place then this criminal application which prays for quashing of the FIR (C.R. No. I-381/2013) registered at Mahatma Phule Chowk Police Station, Kalyan, does not survive. The applicant, for the present, need not apprehend any prosecution for the offences alleged in the subject FIR. As and when any order is passed by the competent criminal court not accepting this report of the prosecution but directing it to proceed with the criminal case, then, it would be open for the applicant to raise all contentions and resort to such remedies as are permissible in law.

5] Equally we clarify that merely because 'C' Summary Report is filed in a competent criminal court that does not prevent that criminal court from issuing notice to the complainant and thereafter taking such steps as are permissible in law. We keep open the contentions of both parties. We clarify that the grant of ad interim order by this Court and its continuation shall not prejudice particularly the complainant from raising appropriate contentions. That order is without prejudice to the same. The criminal application is disposed of accordingly.

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)

Chandka