

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4131 OF 2015

Shirish Gunavant Sawant & Ors.] ... Petitioners

Versus

The State of Maharashtra.] ... Respondent

Mr. Rajendra Shiroadkar i/b Mr. Archit Sakhalkar for Petitioners.
Ms. S. D. Shinde, APP for State.

CORAM :- RANJIT MORE &
SARANG V. KOTWAL, JJ.
DATE :- 18 JULY, 2017

P. C. :-

1. Heard the learned Advocate for petitioners and the learned APP.

2. The petition is filed for quashing and setting aside the proceedings of the criminal case bearing no.950/PS/2014 pending on the file of learned Metropolitan Magistrate, 18th Court, Girgaum, Mumbai. The said case arises out of registration of FIR bearing L.A.C. No.38 of 2012 registered with D. B. Marg Police Station. The said FIR is registered against the petitioners at the instance of PSI Manoj Hirlekar, for the offences punishable under Sections 37(3) and 135 of the Bombay Police Act.

3. The quashing is sought on the sole ground that the cognizance is not taken by the learned Magistrate within the period of six months.

4. Mr. Shirodkar, the learned Advocate for the petitioners, submits that the date of commission of the offence is 21/08/2012. On the same day, the FIR is registered with D. B. Marg Police Station at the instance of PSI Manoj Hirlekar. He submits that after the completion of investigation, charge-sheet was filed in the Court of the learned Metropolitan Magistrate, 18th Court, Girgaum, Mumbai, on 17/11/2014. The offence under Section 37 (3) of the Bombay Police Act is punishable with fine and therefore the limitation is only six months for taking cognizance and since cognizance is not taken within the period of six months, the proceedings of the subject criminal case are required to be quashed and set aside.

5. The learned APP does not dispute the particulars and the dates given by the learned Advocate for the petitioners. She also does not dispute that the FIR was registered on 21/08/2012 and the charge-sheet was filed on 17/11/2014. Cognizance of the same was taken by the learned Magistrate on the same day. She also fairly states that there is no application for condonation of the delay filed by the prosecution.

6. The offence under Section 37(3) is punishable under Section 135 of the Bombay Police Act with fine up to the extent of Rs.2,500/-. Section 468 of the Cr.P.C. talks about the period of

limitation. Under this section, the period of limitation shall be six months if the offence is punishable with fine only. Section 469 of the Cr.P.C., talks about the commencement of the period of limitation. Under this section, the period of limitation will commence on the date of commission of an offence. In the light of these provisions, it is clear that the cognizance of the subject offence taken by the learned Magistrate was beyond the period of six months. This period of limitation is neither extended nor the prosecution has filed application for condonation of the said delay.

7. In the light of the above, we have no alternative but to quash the proceedings of the subject criminal case on the ground of limitation.

8. The petition is, accordingly, made absolute in terms of prayer clause (B).

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)