

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 242 OF 2018**

Waqas Sagir Ahmed Malik

..Applicant

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. F. N. Momin a/w Mr Gautam Jain for the Applicant

Mr. R. M. Pethe APP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 14th MARCH, 2018

P.C.

1 The above Criminal Application has been filed for quashing of the FIR dated 16-12-2017 bearing C. R. No/1-314/2017 registered with the Bhiwandi Police Station for the offences punishable under Section 326 of the IPC.

2 The Learned APP Mr. Pethe draws our attention to Exhibit B which is an order passed in Writ Petition No.5391 of 2017 by a Division Bench of this Court to which one of us R. M. Savant J., was a party. The said order records the statement made by the Learned Counsel for the Petitioners in the said Petition amongst whom was the Applicant above named that he seeks withdrawal of the said Petition. The Petition was accordingly allowed to be withdrawn. The instant Criminal Application has been thereafter filed for the same relief but now invoking Section 482 of the CrPC. The maintainability of

the above Criminal Application is sought to be justified on the specious ground that the earlier Petition was for quashing by consent and the present Application is for quashing on merits, as the ingredients of the offence punishable under Section 326 of the IPC are absent.

3 In the light of the fact that the earlier Petition filed for quashing of the said FIR has been withdrawn by the Petitioners in the said Writ Petition amongst whom was the Applicant, who was the Petitioner No.3, the above Criminal Application filed at his behest is not maintainable. The above Criminal Application is accordingly dismissed.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]