

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1496 OF 2018**

Ranjit Rajendra Shinde & Ors

..Petitioners

Vs.

State of Maharashtra

..Respondent

**Mr. Samir Kumbhakoni a/w Mr. Vaibhav Nirdhar for the Petitioners
Mr. Rajan Salvi APP for the Respondent State**

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 10th APRIL, 2018**

P.C.

1 At the outset, the Learned Counsel for the Petitioner seeks leave to amend so as to incorporate prayer clause (c-1) seeking quashing of the proceedings. Leave granted. Amendment to be carried out forthwith.

2 The above Writ Petition has been filed for quashing and setting aside the proceedings being SCC No.24007 of 2017 pending before the Learned JMFC Pune. The said proceedings have arisen out of FIR bearing No.49 of 2017 registered with the Kothrud Police Station on 4-12-2017 for offences punishable under Section 65, 68 and 8 of the Maharashtra Prohibition Act.

3 The above Petitioners are identically placed as Petitioners in Writ Petition No.2997 of 2017 which Petition was also filed for quashing of the self

same FIR No.49 of 2017 dated 4-12-2017 registered with the Kothrud Police Station. The Division Bench of this Court in the said case has observed that the perusal of the FIR and the allegations contained therein does not disclose cognizable offence in as much as penalty under Section 84 of the said Act is fine to the extent of Rs.5000/-. The Division Bench further observed that the allegations made in the FIR even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out the case against the Petitioners/Accused. The Division Bench has further made observations in the context that the only allegation made against the Petitioners was that they were found drinking in a common drinking house. The Division Bench further observed that there was no blood test report of the Petitioners filed along with the charge sheet to indicate that the Petitioners had consumed the liquor in the common drinking house and the only material against the Petitioners gathered by the Police who had raided the common drinking house was that the Petitioners were smelling of alcohol. It is on the touchstone of the aforesaid facts that the Division Bench observed that neither the FIR nor other material accompanying it discloses any offence much less a cognizable offence against the Petitioners. The said Petition accordingly came to be allowed and the proceedings therein came to be quashed and set aside.

4 As indicated above, the Petitioners in the instant Petition are identically situated as the Petitioners in the said Writ Petition No.2997 of

2017. Hence the above Petition would also have to be allowed and is accordingly allowed in terms of prayer clause (c-1). The above Petition is accordingly disposed.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]