

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3308 OF 2015

Anilkumar Paul Sonu Dass ... Petitioner
Vs.
State of Maharashtra & Anr. ... Respondents

...

Mr. Vijaykumar Mane for the Petitioner.
Mr. Hrishikesh Mundargi for the Respondent No.2.
Mr. P.H. Gaikwad, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 18th JULY, 2018.

P.C.

1. The respondent had preferred an application for discharge before the Metropolitan Magistrate 26th Court, Borivali, Mumbai in C.C. No. 2601899/PW/2011. The said application was rejected by order dated 12th August, 2013.

2. The respondents were prosecuted for the offence punishable under Sections 181, 190, 193, 205, 209, 409, 420, 467, 468, 505(1) r/w 34 of Indian Penal Code. The order dated 12th August, 2013 was challenged by the respondents before the Sessions Court by preferring Criminal Revision Application No. 106 of 2013. The Sessions Court by order dated 28th January, 2015 partly allowed the revision application and set aside the order dated 12th August, 2013. The application for discharge preferred by the respondents was revived and directed the trial Court was directed to decide the

said application on merits after hearing both the parties by following procedure prescribed under Section 239 of Code of Criminal Procedure.

3. The petitioner who is the original complainant is aggrieved by the order dated 28th January, 2015 passed by the Sessions Court.

4. Learned counsel for the respondent No.2 on instructions submits that in pursuant to the order dated 28th January, 2015, the trial Court had heard the application for discharge and the matter is due for passing orders. However, on account of pendency of this petition before this Court, the trial Court did not proceed to pass the final order. In view of the order dated 28th January, 2015 passed by the Sessions Court, the trial Court is required to hear the application afresh. It is indeed being heard by the Court.

5. In the circumstances, this petition is being devoid of merits and deserves to be dismissed. The trial Court shall proceed with the application for discharge preferred by the respondents. Petition stands disposed off.

Sachidanand
Kuttan Nair

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Date: 2018.07.21
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(PRAKASH D. NAIK, J.)