

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 962 OF 2018**

Pramod Mansingh Rathod	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Hemant Ingle i/b Mr. Prashant Goyal for the Applicant

Mrs. S. D. Shinde, A.P.P for the Respondent-State

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
TUESDAY, 5th FEBRUARY 2019**

P.C. :

1 Applicant has approached this Court sometime in the month of July 2018 under Section 482 of Code of Criminal Procedure ('Cr.P.C') for quashing of FIR and charge-sheet.

2 Today it is not in dispute that an application for discharge was moved before trial Court and trial Court has rejected it. That order was not questioned under Section 397 Cr.P.C and has become final. It is also not questioned in present proceedings.

3 Effort of learned counsel for applicant is to demonstrate that despite rejection of application for discharge, as powers under Section 482 Cr.P.C are much wider, the Court can still, to prevent abuse, interfere in appropriate cases. To buttress the submission, support is being taken from judgment of Division Bench of this Court in the case of ***Deven Jitendra Mehta vs. Sate of Maharashtra & Anr.***¹, particularly paragraph 10 thereof.

4 Learned A.P.P is opposing the intervention by this Court. She submits that unless and until order refusing to discharge is found to be vitiated, this Court cannot intervene. She also invites our attention to other material in Court, to show that there are grievances of similar offence/cheating in relation to other persons.

5 We need not, at this stage, delve more into the controversy. Judgment of the Division Bench of this Court mentioned supra, draw support from judgment of Hon'ble Apex Court in case of ***Umesh Kumar vs. State of Andhra Pradesh***². Hon'ble Apex Court

1 2017 DGLS (Bom.) 519

2 2013 (10) SCC 591

has observed therein that while exercising jurisdiction under Section 482 Cr.P.C, High Court can, to prevent abuse of process of Court, intervene though application for discharge is not filed or though such application is pending. Here, that application was preferred and has been rejected.

6 Applicant harps upon submission that in civil litigation, the complainant herself has given an admission which militates with her statement in criminal proceedings. It is open to applicant to rely upon that statement at appropriate juncture. However, it is not in dispute that attention of trial Court which has refused to discharge applicant, was also invited to so-called admission. It is the contention of applicant that trial Court has not recorded any finding, though its attention was invited to that admission.

7 The matter is pending since July 2018 and applicant has also not joined complainant as party-respondent.

8 We are, therefore, not inclined to intervene in
extraordinary jurisdiction. Rejected.

REVATI MOHITE DERE, J.

B. P. DHARMADHIKARI, J.