

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1050 OF 2018

Mrs. Binti Sharma & Ors.

..Petitioners

Versus

The State of Maharashtra & Ors.

..Respondents

WITH
CRIMINAL APPLICATION NO. 143 OF 2018

Anshu Varinder Khanna

.. Intervenor.

In the matter between:

Mrs. Binti Sharma & Ors.

..Petitioners

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Rajiv Patil, Senior Advocate i/b. Mr. Ujjwal Gandhi for
Petitioners.

Mr. K. V. Saste, APP for State/Respondent No.1.

Ms. Teja Katdare a/w. Kunal Waghmare for Respondent No.3 –
MCGM.

Ms. Sneha Sonawane for Intervenor.

CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.

DATE : 30 NOVEMBER 2021

P.C. :

. Heard the learned counsel for the parties. The Petitioners seek quashing of C.C.No.6/PW/18 before Metropolitan Magistrate Court, at Vile Parle, Mumbai and the charge-sheet therein.

2. The offence alleged against the Petitioners is in respect of LAC No. 150/2017 registered with Powai Police station under Section 53(6)(A) and section 52 r/w. Section 43 of the Maharashtra Regional and Town Planning Act, 1966.

3. The Respondent / Municipal Corporation issued notice to the Petitioners in respect of above provisions on the ground that the Petitioners had carried out an unauthorized construction by affixing grill on the windows and building a RCC wall in flat No.1904 upto the ceiling.

4. As regards affixing of grill is concerned, Reply Affidavit is filed by Yatish Randeria, Assistant Engineer (Building Proposal), wherein, in paragraph No.7 he has stated as per the stand taken by the Municipal Corporation that permission is not required for affixing of safety grills to windows/ventilator. Therefore, as regards this part of the alleged infringement/offence is concerned, it would not arise. The next is construction of RCC wall inside the flat. It is the contention of the Petitioners that the wall was removed, may be after time stipulated, but it was voluntarily removed and that pendency of

this Petition and the registration of offence is seriously affecting career of the Petitioner No.1 who is commercial pilot, as regards renewal of her license.

5. Both, the learned counsel for the Petitioners and the learned counsel for the Respondent Corporation have drawn our attention to Section 143 of the MRTP Act 1966 which permits the authorities to compound the offence committed. If the offence is compounded, then anxiety of the Petitioners regarding stigma may not arise.

6. Considering the fact situation as presented before us, where the Petitioner has complied with the notice issued by the Respondent Corporation, may be after notice period, but not with unreasonable delay and that one part of the notice wherein infringement is alleged is not an infringement at all, we have no doubt that if the petitioners approaches for compounding of the offence, the concerned officer of the Respondent Corporation would consider the matter sympathetically and put an end to this dispute.

7. So far as intervenor is concerned, there appear to be private dispute with the Petitioner. If an order of compounding is passed, it needless to state that their *inter se* a civil dispute will not be affected, as this matter is between the Municipal Corporation and the Petitioner.

8. With these observations and expecting a positive stand on behalf of the Municipal Corporation, we dispose of this Petition.

9. Pending Applications are also disposed of accordingly.

10. If the Petitioners approach for compounding of the offence, as above, the Respondent Authorities will take the decision thereupon preferably within a period of four weeks of the submission and communicate the same to the Petitioners, so that, further steps can be taken.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)