

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

CRIMINAL APPLICATION NO.1300 OF 2018

AND

INTERIM APPLICATION NO. 309 OF 2022

Vaijayanti Raghunath Kalekar ... Applicant

V/s.

The State of Maharashtra and ors. ... Respondents

Ms.Vaijayanti Raghunath Kalekar, Applicant in-person present.

Ms.A.S.Pai, PP for Respondent No.1/State.

**CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.**

DATE : 5 JULY 2022.

P.C.:-

1. Heard the applicant in-person and the learned APP.
2. The applicant in-person by interim application has sought recall of the order passed in Criminal Application No.1300 of 2018 dated 11 March 2020. In this application the applicant in-person had sought to quash the FIR No.193 of 2018 lodged at Dapoli Police Station, District Ratnagiri.
3. Though the applicant seeks recall of the order passed by the Division Bench of S.S.Shinde, and V.G.Bisht, JJ. by an administrative

order passed, the application is assigned to the regular Court in taking upon the application/petition for quashing of the FIR.

4. The Applicant in-Person states that against the order passed on 11 March 2020, the applicant had approached the Supreme Court and the Special Leave Petition was withdrawn. The Applicant states that the order being non-speaking, the application for recall is permissible.

5. The Applicant has sought to urge that the aspect of torture by police was not stated in the order dated 11 March 2020 and CCTV footage has not been referred to. These aspects are on merits, which cannot be the sole reason for recall. One of the contentions of the Applicant commends to us is that though there is passing reference in the order dated 11 March 2020 to charge-sheet having been filed, the charge-sheet was not before the Court nor there was any prayer for quashing the charge-sheet as well. It is the case of the applicant from the charge-sheet Applicant could have been demonstrated that no offence is made out and this opportunity is lost to the Applicant.

6. The original application is before us. It can be seen that there was no prayer for quashing of the charge-sheet neither it is part of the record. The argument of the Applicant that opportunity to challenge and seek quashing of the charge-sheet is lost, has merit.

7. Therefore, while we dispose of the Application for recall of the order it is clarified that if a fresh Criminal Application/Petition is filed by the Applicant seeking to quash the charge-sheet, such Application/Petition will be considered on its own merits.

8. With this clarification, the interim application is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)