

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4561 OF 2021**

Charwak Restaurant & Bar
Through Vishal Kumar Singh

... Petitioner

V/s.

Senior Inspector Of Police & Ors.

... Respondents

Mr.R.D. Soni i/b. Ram & Co. for Petitioner.

Ms.M.H. Mhatre, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 22nd December 2022.

P.C. :

1. By the present Petition, the Petitioner has prayed for following substantive reliefs:

“(a) This Hon’ble Court may issue a Writ of Certiorari or any other appropriate writ order or direction for quashing and setting aside the FIR bearing No. 1094 of 2021 dated 13/11/2021 annexed at Exh. “F” to the Petition.

(b) This Hon’ble Court may issue a Writ of Certiorari or any other appropriate writ order or direction for quashing and setting aside the Notice dated 13/11/2021 issued by the Respondent No.1 to the Petitioner which is annexed at Exh. “E” to the Petition.”

2. As far as prayer Clause (a) i.e. quashing of First Information Report (F.I.R.) is concerned, the learned A.P.P, on instructions, submitted that, after completion of investigation Police have submitted Chargesheet in

the Court of Metropolitan Magistrate, 68th Court, Borivali, Mumbai.

As the Petitioner is now having substantive alternate remedy under the Criminal Procedure Code to file an application for discharge or to avail any other remedy as may be advised and permissible under the law, Mr.Soni, learned counsel for the Petitioner on instructions does not press the said prayer and seeks liberty to adopt appropriate remedy as noted herein.

Leave and liberty granted.

3. As far as prayer Clause (b) is concerned, record indicates that the Petitioner has already filed his reply dated 19th November 2021 to said Notice and thereafter the Respondent No.1 has not taken any further action on it. That, the establishment of the Petitioner is operating even after 13th November 2021. According to us, after filing of reply by the Petitioner dated 19th November 2021, the effect of the said notice has ceased to be in force. In view thereof, we grant liberty to the Petitioner to file reply and/or representation with the concerned, if a fresh notice is issued to him by the Respondent No.1.

4. Petition is disposed off in the aforesaid terms.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]