

AGK

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

WRIT PETITION NO.975 OF 2023

Swararaj Alias Raj Shrikant Thacheray ... Petitioner

V/s.

The State of Maharashtra ... Respondent

Mr. Rajendra Shirodkar, Senior Advocate with Mr.
Archit Sakhalkar & Mr. Nihar Ghag for the petitioner.

Mr. Arfan Sait, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 23, 2023

P.C.:

1. The challenge in this writ petition is to the order dated 3rd February 2023 passed by the Additional Sessions Judge, Islampur dismissing revision application arising out of application for discharge filed before the learned Magistrate for offences punishable under sections 143, 109, 117 of Indian Penal Code, 1860, section 7 of the Criminal Law Amendment Act, 1932 and section 135 of the Maharashtra Police Act, 1951 vide C.R. No.40 of 2008.

2. The petitioner filed discharge application mainly on the ground that on the date of alleged incident, i.e. 21st October 2008, he was arrested from Ratnagiri in C.R. No.264 of 2008. He was produced before the learned Metropolitan Magistrate, Bandra,

Mumbai and was released on bail. According to him, there is no evidence to show that he had not committed alleged crime.

3. The Trial Court rejected the application. Aggrieved thereby, the petitioner filed criminal revision application before the Sessions Judge. The Sessions Court, mainly based on reasons in paragraph 10, dismissed the criminal revision application. The Sessions Judge has observed that *prima facie* there is material on record to show involvement of the petitioner in the alleged offence. It is observed that there are specific allegations and material on record is sufficient to connect petitioner with the crime alleged.

4. In my opinion, it was obligatory on the revisional Court to *prima facie* discuss/indicate material which, according to the Sessions Court, is against the petitioner. In the absence of *prima facie* reference to the material against the petitioner, the revision could not have been dismissed based on vague reasons that the material on record is sufficient to indicate involvement of the petitioner in the offence alleged. Perusal of the order of revisional Court, it does not appear to have referred any material which, according to the revisional Court, is sufficient to indicate involvement of the petitioner. It is, therefore, necessary that proceedings be remanded back to the revisional Court for decision afresh in accordance with law. Hence, following order:

a) The impugned judgment and order dated 3rd February 2023 passed by the learned Additional Sessions Judge, Islampur in Criminal Revision Application No.1 of 2023 is quashed and set

aside;

b) Proceedings are remanded back to the learned Additional Sessions Judge, Islampur who shall decide Criminal Revision Application No.1 of 2023 in accordance with law.

5. The criminal revision application stands disposed of in above terms. No costs.

6. The petitioner is permitted to file appropriate application for stay of warrants issued against the petitioner. If such application is filed, the revisional Court shall decide the same in accordance with law expeditiously.

(AMIT BORKAR, J.)