

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1807 OF 2023**

Mohammed Faiyazuddin s/o.
Mohammed Qamruddin & Ors.

... Petitioners

V/s.

The State of Maharashtra & Anr.

... Respondents

Ms.N.S. Baig i/b. Mr.S.R. Baig for Petitioners.
Mrs.M.M. Deshmukh, A.P.P for Respondent No.1-State.
P.S.I. Mr.V.S. Jamadar, Sir J.J. Marg Police Station, Mumbai is present.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 5th June 2023.

P.C. :

1. Present Petition is filed under Article 226 of the Constitution of India and under Section 482 of Criminal Procedure Code (for short, "Cr.P.C.") for quashing of CR No. 0537 of 2022, dated 26th June 2022, registered with Sir J.J. Marg Police Station, Mumbai.

2. At the outset, learned A.P.P, on instructions from Police Sub-Inspector Mr.V.S. Jamadar attached to Sir J.J. Marg Police Station, Mumbai, submitted that, the investigation of the present crime is completed and the police will submit final report as contemplated under Section 173(2) of Cr.P.C. within a period of two weeks from today. The said statement is accepted.

3. From the arguments of the learned Advocate for Petitioners, it is apparent that she wants this Court to conduct a mini trial and adjudication on the veracity of the statements of witnesses before those are examined by the Trial Court. The same is not permissible under the law. It is the settled position of law that, at the stage of discharge and/or quashing of the Criminal proceedings while exercising the powers under Section 482 of Cr.PC., the Court is not required to conduct a mini trial. Reliance is placed on a decision of the Hon'ble Supreme Court in the case of Central Bureau of Investigation Vs. Aryan Singh, dated 10th April 2023 passed in Criminal Appeal No. 1025-1026 of 2023 (@ SLP (CRL.) Nos. 12794-12795 of 2022).

4. As the police are submitting Final Report before the Trial Court, as noted herein above, the Petitioners are having substantive alternate remedy by way of filing an application for discharge before the Trial Court.

5. Petition is accordingly disposed off by reserving the remedy of the Petitioners to file an application for discharge as contemplated under the provisions of Cr.PC., before the Trial Court.

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]

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