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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL APPLICATION NO.29 OF 2017
IN
CRIMINAL WRIT PETITION NO.2727 OF 2017

Hausilaprasad A. Tiwari ...Applicant
V/s.
State of Maharashtra & Anr. ...Respondents

Mr.R.V. Sipahimalani for the Applicant.

Mr.Ajay Patil, APP for Respondent No.1 – State.

Mr.Yashpal Thakur for Respondent No.2.

CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ.
DATE : 4TH SEPTEMBER, 2023.

P.C. :-

1. The Criminal Writ Petition was disposed of by this Court
vide order dated 19th August, 2016. The said order reads thus :-

“None appears for the Petitioners. Learned
APP states that during the pendency of this
Petition, charge sheet has already been filed.

2. In view of this statement, a remedy is
available to the Petitioners before the appropriate
Court. By keeping open the said remedy, the Petition
is disposed of. All contentions on merits are kept
open.”

2. The order was passed having regard to the fact that learned APP made a statement that during the pendency of the Writ Petition that the charge-sheet has been already filed against the Petitioner.

3. It appears that in the disposed Writ Petition, the Petitioner took out an application with a prayer to order *suo-motu* action against Respondent No.1 for making false and misleading statement, which lead to passing of the order dated 19th August, 2016.

4. This Court pursuant to the prayer of the Applicant, caused notice and directed Senior P.I. of the Shreenagar Police Station, Thane to file an affidavit in the matter. The Senior P.I. has filed an affidavit and stated on oath that the charge-sheet in the matter was sent to the Court of the Judicial Magistrate, First Class, Thane on 9th March, 2016. He has specifically made statement on oath that repeated attempts were made to intimate the Petitioner - Accused, however they could not be intimated about filing of the charge-sheet.

5. We accept the explanation tendered by Senior P.I. of the concerned Police Station and disposed of the Application.

6. Needless to clarify that the remedy available to the Petitioner *qua* the charge-sheet can be taken recourse to without being influenced by disposed of Writ Petition.

(RAJESH S. PATIL, J.)

(NITIN W. SAMBRE, J.)