

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1258 OF 2023

Sachinam Changya Guruswamy @ }
Sanjay @ Sanjeeva Shetty @ Sanju }
Shetty }
aged: 52 years, R/o: Flat No. 02, 'C' }
Wing, Building No. 113/114, }
Shriprasth, Nalasopara (W), Palghar. }Petitioner

V/s.

The State of Maharashtra }Respondent

Mr. Ayaz Khan a/w. Ms. Zehra Charania for petitioner.

Ms. M.H. Mhatre-APP for the State.

**CORAM : SUNIL B. SHUKRE &
M.M. SATHAYE, J.J.**

DATED : APRIL 10, 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J)

. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

3. By this petition, the petitioner is seeking quashing of criminal case registered against him vide Crime No. 209 of 2007, Anti Narcotic Cell, Mumbai. According to the learned counsel for the petitioner, except for statement of some co-accused, taking name of the

petitioner as the supplier of Narcotic drugs, there is no other evidence available on record and he further submits that all the co-accused have already been acquitted in this trial and therefore, this is a fit case for making interference in the matter. Learned APP has tendered across the bar reply of the Investigating Officer, which is taken on record and marked as document 'A' for identification.

4. Learned APP submits that except for the evidence in the nature of statement of co-accused, taking name of the petitioner as supplier of Narcotic drugs, there is no other evidence found against the petitioner. The reply of the Investigation officer shows what has been submitted before us by learned APP is true. It also confirms the fact that all the co-accused have been acquitted by the concerned Court. These co-accused were the persons, through whom, it is alleged, the petitioner used to operate for carrying out illegal supply of Narcotic drugs . But, as seen from the reply of the Investigating Officer, there is no evidence, found against the petitioner that he indeed was a supplier of Narcotic drugs. All the co-accused, through whom the petitioner was allegedly operating, have been acquitted for want of evidence. If this is so, there is no possibility whatsoever of the petitioner being convicted in this crime and if the trial Court is permitted to go ahead with the trial of the petitioner in such circumstances, it would be serve no purpose and, therefore, in our considered opinion, this is a fit case for quashing the criminal case.

5. The petition is allowed in terms of prayer clause 'a' which reads thus :-

“a) Quash the case registered vide C.R.No. 209 of 2007 of Anti Narcotic Cell, Mumbai qua the petitioner”.

6. Rule is made absolute in the above terms.

(M.M. SATHAYE, J)

(SUNIL B. SHUKRE, J)