

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

CRIMINAL WRIT PETITION NO. 2775 OF 2023

Chandrabha @ Chandrabhan Hardev Singh
and another

..Petitioners

Versus

The State of Maharashtra

..Respondents

Mr. A. M. Saraogi for Petitioner.

Mr. A. R. Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 9 AUGUST 2023

PC :

1. Heard Shri. Saraogi, learned counsel for the Petitioners and Shri. A. R. Patil, learned APP for the State.

2. Learned counsel for the petitioners made various submissions in respect of the remaining charges which the petitioners are likely to face in the trial before the learned Magistrate.

3. The petitioners have challenged part of the order dated 19/06/2023 passed by the learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai, below Exhibit-6 in Sessions

Case No.734 of 2021. By the impugned order, the learned Additional Sessions Judge discharged the petitioners from the charges of commission of offence punishable U/s.353 of the I.P.C. and for the rest of the charges, the case was transferred to the Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai.

4. Shri. Saraogi took me through the entire charge-sheet. He submitted that, even the other offences are not made out and the petitioners deserve to be discharged. He emphasised that, Section 171-G (wrongly typed as '177(g)' in the impugned order) is not attracted at all. There was no specific statement against the character or conduct of any candidate attributed to the petitioners. He further submitted that, even other offences are not made out.

5. However, when I expressed my disinclination to grant relief of discharging the petitioners, learned counsel for the petitioners sought permission to withdraw this petition. His only request was that, some clarification be issued so that, while framing of the Charges, learned Magistrate is not influenced by the

order passed by the Sessions Court. The request is reasonable. Learned Magistrate will have to apply his mind independently to the charge-sheet before framing of the charges.

6. Hence, the following order:

O R D E R

- i) The petition is allowed to be withdrawn.
- ii) Learned Magistrate shall consider framing the charge in accordance with law, after hearing the parties; without being influenced by the observations made by learned Additional Sessions Judge, Dindoshi, in the order dated 19/06/2023 passed below Exhibit-6 in Sessions Case No.734 of 2021.
- iii) With this observation, the petition is disposed of.

(SARANG V. KOTWAL, J.)