

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

CRIMINAL WRIT PETITION NO. 3908 OF 2022

Chandrashekhar Chandrakant Khadye ...Petitioner
Versus

1. The State of Maharashtra
Through Gamdevi Police Station, Mumbai
2. Suraj Parsram Thakre
Residing at Room No.08, 1st Floor,
Mankeshwar Sadan, Kolsewadi,
Kalyan, District Thane. ...Respondents

Mr. Madhusudan Pareek, for Petitioner.
Ms. S.D. Shinde, APP for Respondent-State.

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

DATED : 13th April, 2023

P.C. :

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.
2. The allegation made against the Petitioner is that the land in question, which did not belong to the Petitioner, was used by the Petitioner for the purpose of “Pay and Parking” and by allowing the vehicle owners to park their vehicles on the land in question, the Petitioner used to charge certain fees from them on hourly basis. This

allegation has compelled the Respondent No.2-the Complainant/Police Officer to file a complaint against the Petitioner of committing an alleged offence of cheating. The Police Station, Gamdevi, Mumbai accepted the complaint and registered the offences punishable under Section 419, 420 r/w. Section 120 of Indian Penal Code. After the investigation was over, the charge-sheet was also filed against the Petitioner.

3. Copy of the charge-sheet has been filed on record by the learned counsel for the Petitioner. We have gone through the copy of the charge-sheet on record with the assistance of the learned counsel for the Petitioner, learned APP for Respondent No.1-State and learned counsel for Respondent No.2-the Complainant.

4. Although the learned APP submits that since the charge-sheet has been filed the Petitioner be made to face the trial, we are of the view that the allegations made in the F.I.R. taken at their face value by themselves do not disclose any offence of cheating against the Petitioner. This

conclusion of ours is strengthened by the statement of Datta Achyut Kothavale, who is a Public Relation Officer of Tulsi-das Gopalji Charitable and Dhakleshwar Temple Trust, Mahalaxmi, Mumbai. He has stated that there was implied consent of the Trust for the Petitioner to use the land in question for the purpose of allowing different vehicle owners to temporarily park their vehicles on paying certain charges. He has stated that the Trust was aware of that activity of the Petitioner in using the land in question for the activity "Pay & Parking". He has also stated that the Petitioner used to pay certain amount every month to the Trust as donation. Of course, he also states that, there was no written agreement between the Trust and the Petitioner in this regard but, his statement does shows that whatever was done by the Petitioner on the land in question was on the basis of implied consent of the Trust and the Trust also accepted certain amount from the Petitioner on monthly basis, in the name of donation to the Trust. This statement would show that there was no false representation and inducement made by the Petitioner to the vehicle owners,

much less the Complainant-the Police Officer, who does not allege that he was also induced by the Petitioner by making false representation to him into paying certain amount to the Petitioner against his parking particular vehicle on the land in question. It is, therefore, obvious that no offence of cheating whatsoever is made out against the Petitioner and this is a fit case for quashing of the F.I.R. and also consequent criminal proceedings. Accordingly, we pass the following order:-

5. The Petition is allowed. The Crime No.284 of 2022 registered with Gamdevi Police Station, Mumbai and consequent criminal proceeding, being C.C. No.518/PW/2022, pending before the learned Metropolitan Magistrate, 40th Court, Girgaon, Mumbai, are hereby quashed and set aside.

6. Rule is made absolute in the above terms.

7. Petition is disposed of.

(M.M. SATHAYE, J.)

(SUNIL B. SHUKRE, J.)