

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3647 OF 2023**

Jeetesh Varshney

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Mitesh Varshney a/w. Mr. Mathew Nedumpara for Petitioner.
Ms. Mahalakshmi Ganpathy, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 3rd November 2023.

P.C. :

1) By the present Petition under Article 226 of the Constitution of India read with Section 482 of Criminal Procedure Code, the Petitioner has prayed for quashing and setting aside the Oral Order of D.C.P, Zone-XI, Mumbai that, no F.I.R. be registered on the basis of the complaint filed by the Petitioner against the prospective accused persons, for forging Government documents and counterfeiting Government seal and to direct the Commissioner of Police, Mumbai to personally inquire into the matter about the involvement of the D.C.P, Zone-XI about his alleged role in passing of an Oral Order that, no F.I.R. be registered in the present crime and for other consequential reliefs.

2) During the course of arguments, this Court enquired with the Advocate for the Petitioner, that which is the said document on which the alleged counterfeit Government seal is put. He pointed out to us Index-II (page 31) and Leave and License Agreement (page 32-36). Upon a query raised by this Court, as to who informed the Petitioner that, it is the counterfeit Government seal put on the said document, the Advocate for the Petitioner answered that the same is assumption of the Petitioner and therefore it needs to be investigated.

2.1) It is the settled position of law that, the Petitions under Article 226 of the Constitution of India cannot be filed merely on the assumption of some facts alleging commission of crime against prospective accused persons. The Advocate for the Petitioner was also unable to tell us, as to why he did not approach the learned Magistrate at the first instance by way of a complaint for redressal of his grievance, as per the settled position of law, to which he had no answer.

3) In view thereof, we are not inclined to entertain the present Petition and is dismissed it in *limine*.

4) At this stage Advocate Mr. Mitesh Varshney told this Court that, if this Court is not inclined to grant any relief in his favour, the Petition may be transferred to other Bench. His demeanor while making the said statement and his tenor of voice was tending to attract Section 2(c) of the Contempt of Courts Act, 1971.

4.1) We therefore put on notice to Advocate Mr. Mitesh Varshney that, we are inclined to initiate necessary action against him under the law including to refer his matter to the Bar Council. He therefore tendered apology and submitted that, he will file his written apology in the second session.

4.2) Petition was therefore kept back and called out at 4.30 p.m..

5) At 4.30 p.m. Mr. Nedumpara, learned counsel appeared for Advocate Mr. Mitesh Varshney and tendered across the bar his unconditional apology in writing. In the said written apology the Advocate Mr. Mitesh Varshney has unconditionally apologized and has sought mercy. The said written unconditional apology of Advocate Mr. Mitesh Varshney is accepted and taken on record.

5.1) We accordingly put the said issue at rest.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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