

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

CRIMINAL WRIT PETITION NO.3827 OF 2011

Vilas Murlidhar Mayekar

...Petitioner

Versus

The State of Maharashtra and Anr.

...Respondents

Ms. S. Pramila, for the Petitioner.

Ms. P. P. Shinde, A.P.P for the Respondent No.1-State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 23rd JULY 2024

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks quashing and setting aside of the impugned order dated 25th July 2011, passed by the Divisional Commissioner, Konkan Division, Mumbai. By the said order the Divisional Commissioner, Konkan Division, Mumbai, dismissed the petitioner's appeal, for the reasons set out therein.

3. Learned counsel for the petitioner states that the primary consideration for dismissing the petitioner's appeal, as is evident from para 1 of the said order is registration of a case/FIR against the petitioner with the Dapoli Police Station. She submits that infact not a single case/FIR was pending against the petitioner and hence reliance placed on an alleged C.R. registered with the Dapoli Police Station, was completely misplaced.

4. On the last occasion, we had directed the learned APP to take instructions whether any C.R. was pending as against the petitioner, with the Dapoli Police Station. Today, the learned APP on instructions states that no C.R/FIR has been pending as against the petitioner with the Dapoli Police Station. She fairly concedes that the reliance placed on the alleged FIR against the petitioner with the Dapoli Police Station, is factually incorrect.

5. Considering the aforesaid, the impugned order dated 25th July 2011, passed by the Divisional Commissioner, Konkan Division,

Mumbai, cannot be sustained and as such is quashed and set aside.

6. The appeal preferred by the appellant therein, is restored back to its original file. The Divisional Commissioner, Konkan Division, Mumbai, to hear the parties, including the petitioner and thereafter pass a fresh order, uninfluenced by its earlier order dated 25th July 2011.

7. Petition is allowed and disposed of on the aforesaid terms.

8. The said appeal to be decided by the Divisional Commissioner, Konkan Division, Mumbai, as expeditiously as possible, and in any event, within eight weeks from the date of receipt of this order. All parties to co-operate in the expeditious disposal of the appeal.

All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.