

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

**WRIT PETITION NO. 1338 OF 2018
WITH
INTERIM APPLICATION NO.3248 OF 2021
IN
WRIT PETITION NO. 1338 OF 2018**

Raju Dayal Kanal

.. Petitioner

v/s.

State of Maharashtra & Anr

.. Respondents

Mr. Kaushal Thakker a/w. Ms.Sonea Kanal for the Petitioner.

Mr. J.P. Yagnik, APP for the Respondent-State.

Mr. Nigel Quraishy for Respondent No.2.

CORAM : A. S. GADKARI &

SHYAM C. CHANDAK, JJ.

DATE : 8th MARCH, 2024.

PC. :

1) By the present Petition filed under Article 226 of the Constitution of India, the Petitioner an accused in C.R.No.614/2017 registered with Bandra Police Station, Mumbai and now being investigated by EOW Mumbai, having renumbered as C.R.No.96/2017 under Sections 406, 420 and 120(B) of I.P.C., has prayed for quashing of the said crime.

2) Record indicates that, by an Order dated 16th April 2018, by way of ad-interim relief, this Court had restrained the investigating agency from filing chargesheet and calling Petitioner for investigation.

3) During the pendency of the Petition, the investigation of the present crime is completed and the State (Investigating Agency) has filed

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the above noted application, seeking permission to file charge-sheet before the Court of competent jurisdiction.

4) Learned Advocate for the Petitioner submitted that, in the interregnum the Petitioner and Respondent No.2, interalia representing Bandra Happy Home Co-operative Society Limited, Bandra, have settled their disputes and differences and the Respondent No.2 has decided not to pursue the said case further and has given no objection for quashing of the crime in question. He therefore prayed that, crime in question may be quashed with the consent of the Respondent No.2.

5) Learned counsel for the Respondent No.2 submitted that, Respondent No.2 in her capacity as Secretary of the Bandra Happy Home Co-operative Society Limited was impleaded in the present Petition. That, presently Mr. Yunus Mamajiwala is the Secretary of the said Society. In a Special General Body meeting held on 23rd April 2023, all the members of the said Society have unanimously decided that, the Society do not wish to pursue the said C.R.No. 614/2017 originally registered with Bandra Police Station, Mumbai and presently being investigated by EOW, Mumbai being C.R. No. 96/2017, against the Petitioner and it has no objection for quashing of the crime in question. He tendered across the bar Affidavit dated 7th March 2024, of Mr. Yunus Mamajiwala, the Secretary of said Society duly affirmed before a Notary Public. The facts narrated herein above have been stated in the said Affidavit.

5.1) In para No.5 thereof, the Secretary of Respondent No.2 Society has given '*no objection*' on behalf of Respondent No.2, for quashing of the crime in question.

5.2) Learned Advocate Mr. Nigel Quraishy appearing for Respondent No.2 on instructions of Mr.Yunus Mamajiwala, reiterates the contents of the said Affidavit dated 7th March 2024, and 'No Objection' of the said Society for quashing of the crime in question. Learned Advocate on instructions further submitted that, the co-accused viz. Jaikishan Thadaram Watnani is reported to be dead.

6) As we expressed our opinion for quashing of said C.R. No.614/2017, originally registered with Bandra Police Station, Mumbai and presently being investigated by EOW, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.2,50,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

7) We therefore direct the Petitioner to pay a cost of Rs.2,50,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

7.1) The details of the bank Account for payment of cost are as

under:-

Bank Name :- Axis Bank Limited.
Branch Name :- Worli, Mumbai (M.H.), Mumbai-400 025
Account Name :- Central Police Welfare Fund
Account Number :- 914010029005759
IFSC Code :- UTIB0000060

7.2) Petitioner to deposit the said cost of Rs.2,50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

8) In view of the above and subject to payment of cost, Petition is allowed in terms of prayer clause (b).

9) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the investigation of C.R.No.614/2017 registered with Bandra Police Station and presently transferred to EOW Mumbai being C.R. No. 96/2017, will be proceeded expeditiously.

10) In view of disposal of the Writ Petition No.1338/2018, Interim Application No.3284/2021 filed therein does not survive and is accordingly disposed off.

11) List the Petition on 8th April 2024 under caption '*for reporting compliance*' of present Order.

12) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)