

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 2592 OF 2024**

Ahmed Hussain Khan & Ors.

... Petitioners

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Viqar Rajguru a/w. Mr. Azeem Khan for Petitioners.
Mr. Kiran C. Shinde, A.P.P. for Respondent No.1-State.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 13th June 2025.

P.C. :

- 1) Petitioners have invoked jurisdiction of this Court under Article 226 of the Constitution of India for quashing of CR No. 199 of 2024, dated 12th April 2024, registered with Versova Police Station, Mumbai, for the offence punishable under Sections 341, 427, 506, 504 read with 34 of Indian Penal Code and Sections 128, 129 & 194 of the Motor Vehicles Act, 1988.
- 2) At the outset, Mr. Shinde, learned A.P.P. on instructions submitted that, after completion of investigation of present crime, the police have filed chargesheet.
- 3) The Hon'ble Supreme Court in the case of *Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors., Special Leave to Appeal (Cri.) No.*

13578/2024, dated 15/10/2024, has held that, after filing of chargesheet the Petition for quashing of F.I.R. becomes infructuous.

3.1) In view thereof, the Petition has become infructuous.

4) There is another facet to the present Petition.

As the Police have filed chargesheet, the Petitioners are having substantive alternate statutory remedy under the provisions of Criminal Procedure Code / BNSS by way filing an Application for discharge before the trial Court.

5) It is the settled position of law and as has been decided in catena of decisions by the Hon'ble Supreme Court, ordinarily the Court will not entertain a Petition under Article 226/227 of the Constitution of India, where the Petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is a well-recognized principle which gained judicial recognition that, the High Court should direct party to avail himself of such remedies, one or the other before he resorts to the constitutional remedy.

5.1) Reliance is placed on the following decisions :-

- (i) Thansingh Nathmal Vs. The Superintendent of Taxes, Dhubri & Ors., reported in AIR 1964 SC 1419.
- (ii) A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors., reported in (2000) 7 SCC 695.

- (iii) Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329.
- (iv) Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423.
- (v) Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr., reported in (2019) 419 ITR 440 (SC).
- (vi) Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors., reported in (2019) 9 SCC 538.
- (vii) Magadh Sugar & Energy Ltd. Vs. State of Bihar & Ors., reported in 2021 SCC OnLine SC 801.

6) The Petition is accordingly disposed off, by reserving the statutory remedy in favour of the Petitioners, to file an Application for discharge before the trial Court, if so advised.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)

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