

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4181 OF 2024
(For Restoration)
IN
CRIMINAL WRIT PETITION NO. 3628 OF 2014
WITH
INTERIM APPLICATION NO. 4182 OF 2024
(For Restoration)
IN
CRIMINAL WRIT PETITION NO. 1581 OF 2016

Shaukat Ali Betgeri ...Applicant
Versus
State of Maharashtra and Anr. ...Respondents

Mr. Bhavesh Parmar a/w. Ms. Reshma Nair and Devmani Shukla,
advocate for the Applicant/Petitioner.
Ms. Pallavi Dabholkar, APP for the Respondent – State.

CORAM: MANISH PITALE,
MANJUSHA DESHPANDE, JJ.

DATED: 24th NOVEMBER 2025.

PC:-

1. These two applications for restoration have been filed on behalf of the petitioners in these two petitions. Both these petitions were dismissed for non prosecution on 4th December, 2023, as there was no appearance on behalf of the said petitioner on the said date.

2. The record shows that in Criminal Writ Petition No.3628 of 2014 , by an order dated 25th October, 2016, Rule was granted and

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by way of interim relief, direction was given that, no further steps would be taken against the petitioner on the basis of the impugned FIR.

3. Criminal Writ Petition No. 3628 of 2014, concerns quashing of FIR and chargesheet while Criminal Writ Petition No. 1581 of 2016 prays for certain directions against the respondents on the basis that the petitioner was not granted bail in a bailable offence although he was ready to furnish bail in the police station.

4. We have perused the contents of the application for restoration. For the reasons stated in paragraphs 4 to 6 in the said applications, we are satisfied that sufficient cause is made out for seeking recall of the order of this Court dismissing the writ petitions for non prosecution and for restoration of the writ petitions. Accordingly the applications are allowed and both the Writ Petitions are restored.

5. As regards Writ Petition No. 1581 of 2016, we find that since specific directions are sought against the respondent–State, including respondent nos. 2 and 5 who are officers of respondent–State, it would be appropriate that fresh notice is issued to the said respondents to appear in Writ Petition No. 1581 of 2016.

6. Accordingly, issue notice in Writ Petition No. 1581 of 2016, returnable on **7th January, 2026**.

7. As regards Writ Petition No. 3628 of 2014, the learned counsel for the petitioner and the learned APP were heard.

8. Learned counsel for the petitioner invited attention of this Court to the subject FIR and the chargesheet filed by the investigating authority.

9. It is submitted that petitioner is not even named in the FIR in the first place and surprisingly he was shown as absconding in the chargesheet, despite the fact that the documents on record show that the petitioner was very much present and available as he was facing prosecution in another offence about which the investigating authority was clearly aware.

10. It is further submitted that the material on record, accepted as it is, makes out no case against the petitioner. It was further highlighted that even some of the main accused persons specifically named in the FIR were acquitted after full scale trial, thereby indicating that the said writ petition deserved to be allowed.

11. The learned APP could not dispute the fact that some of the named accused persons have been acquitted by the concerned Court upon full fledged trial and the fact that the petitioners were not named in the FIR.

12. We have perused the documents on record. FIR No.450 of 2010 was registered on 21st September, 2010 at the Parksite Police Station, Mumbai, for the offences punishable under Sections 143, 144, 145, 149 and 427 read with Section 34 of the Indian Penal Code (IPC) and under Sections 37(1) (a) (2) and 135 of the Bombay Police Act. The allegation against the named accused person was that, they had damaged the wall between a Dargah

and an adjoining society. The first informant was police sub inspector of the said police station. The FIR shows that the petitioner was not even named in the same, and there was no question of any specific allegations against the petitioner.

13. We further find substance in the contention raised on behalf of the petitioner that, the chargesheet could not have shown the petitioner as absconding, as he was very much available, and yet the investigating authority made no efforts in the context of the proceedings initiated in furtherance of the subject FIR as against the petitioner.

14. We also find that despite the alleged offence being a non cognizable and bailable offence, when the petitioner sought to furnish bail in the police station, he was not permitted to do so, thereby indicating the approach adopted by the investigating authority as against the petitioner.

15. The documents on record also show that some of the named main accused persons were acquitted after full fledged trial, as the Magistrate did not find any substance in the evidence led by the prosecution against the said accused persons.

16. Considering the fact that the petitioner was not even named in the FIR and the chargesheet also did not bring out any specific role attributed to the petitioner, coupled with the fact that the main accused persons stood acquitted, the present application for quashing of the FIR and the chargesheet deserves to be allowed.

17. In view of the above, Criminal Writ Petition No. 3628 of 2014 is allowed in terms of prayer Clause (b). Consequently, the FIR 450 of 2010 registered with the Parksite Police Station, Mumbai, and the consequent chargesheet as also the criminal case pending against the petitioner in the context of the said FIR are quashed.

(MANJUSHA DESHPANDE, J.)

(MANISH PITALE, J.)