

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3000 OF 2025**

Sunil Pritamdas Lalwani & Ors.

.....Petitioners

Vs.

State Of Maharashtra

.....Respondent

Adv. Vivek Suvigya Vidhyarithi a/w Adv. Heramb Pawar for the Petitioners.
Mr. Vinod Chate APP, for the Respondent-State.
Adv. Gul Madnani for the Intervenor.
Mr. Ganesh Bharti, PSI, attached to Bandra Police Station present.

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

DATE : 3rd JULY, 2025.

PC.:-

- 1) Present Petition is filed for quashing of FIR No.0065 of 2025 dated 14th January, 2025 registered with Bandra Police Station for the offences punishable under Sections 441, 341, 452, 506 and 323 read with 34 of Indian Penal Code.
- 2) Learned APP on instructions from Mr. Bharti, PSI, attached to Bandra Police Station, Mumbai submitted that, after completion of investigation of the present crime, the police have filed charge-sheet on 30th May, 2025 in the Court of 12th JMFC, Bandra, Mumbai.
- 3) In view of the ratio laid down by 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*, present Petition for quashing of FIR has become infructuous.

4) As the police have already filed charge-sheet, the Petitioners have alternate statutory remedy under the provisions of Cr.PC/BNSS 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 the 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 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) According to us, filing an Application for discharge before the trial Court is not an onerous remedy and in fact an equally efficacious remedy. The Petitioners cannot be permitted to raise a specious plea calling upon this Court to adjudicate his innocence in a Petition under Article 226 of the Constitution of India. It is against the settled principles of law. At the same time, the Petitioners cannot be permitted to make the statutory provisions of the Cr.P.C./BNSS otious, by directly approaching this Court under Article 226 of the Constitution of India.
- 7) In view of the above and by reserving the remedy of filing an Application for discharge before the trial Court in favour of the Petitioners, Petition is disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)