

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4552 OF 2025**

Umesh P. Bhatt & Ors.

.....Petitioners

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Ms. Shraddha Kadam for the Petitioners.

Mr. Ajay Patil APP, for the Respondent-State.

Mr. Praful B. Valvi for the Respondent No.2.

Mr. John P. Pillai, PSI attached to Vile Parle police Station, Mumbai.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.
DATE : 22nd AUGUST, 2025.**

PC:-

1) Petitioners, accused in FIR No.0559 of 2022 dated 30th May, 2022, registered with Vile Parle Police Station, Mumbai for the offences punishable under Sections 120-B, 406 and 420 of the Indian Penal Code, have filed present Petition under Article 226 of the Constitution of India for quashing of the said crime with the consent of Respondent No.2, the informant.

2) At the outset, learned APP on instructions from PSI Mr. Pillai, attached to Vile Parle police Station, Mumbai submitted that, after completion of investigation of present crime police have filed charge sheet

on 19th October, 2023 in the Court of 65th J.M.F.C., Andheri, Mumbai and the same has been numbered as CC No.3547/PW/2023. He further on instructions submitted that, trial Court has also taken cognizance of the said crime.

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 after filing of charge-sheet has become infructuous. Petitioners have not impugned the Order of taking cognizance and according to us the ratio laid down by the Hon'ble Supreme Court in the case of *Neeta Singh & Ors. (Supra)*, therefore is squarely applicable to the case in hand.

4) There is another facet to this case. As the police have already filed charge-sheet before the trial Court, the Petitioners are having 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 by a 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 either challenging the Order of taking cognizance or filing an Application(s) for discharge before the trial Court, in favour of the Petitioners, Petition is disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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