

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6138 OF 2024

Madhubala Shetty
Age: 44 Years, Adult, Indian Inhabitant,
R/o 402, Kailash Tower, Behind S.M. Shetty
School, Chandivali, Powai,
Mumbai 400 072.

..Petitioner

Versus

1. State of Maharashtra

2. Municipal Corporation of Greater Mumbai
Through Shri Shantaram B Mahajan,
Assistant Law Officer, Officer of the
Assistant Commissioner, 'S' Ward,
Municipal Office Building, Mangatram
Petrol Pump, L.B. S. Marg, Bhandup (W),
Mumbai – 400 078.

...Respondents

Mr. Karansingh Rajput, with Himanshu Pradhan, i/b Crawford Bayley
& Co, for the Petitioner.
Smt. R.S. Tendulkar, APP, for the Respondent No.1-State.
Mr. P P Chavan, i/b Komal Punjabi, for Respondent No.2-MCGM.

CORAM: N. J. JAMADAR, J.

DATE : 17th JANUARY 2026

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RAMCHANDRA
SANKPAL

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ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. The challenge in this Petition is to an order dated 29th August 2023, passed by the Metropolitan Magistrate, 41st Court, Shindewadi,

ARS

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Dadar, whereby process has been ordered to be issued against the Petitioner as prayed in the complaint lodged by Respondent No.2 for the offence punishable under Section 394(1)(e)(i) read with Section 471 of the Mumbai Municipal Corporation Act, 1888 (“the MMC Act”).

3. The gravamen of indictment against the Petitioner and the co-accused was that on 3rd August 2023, Mr. Rakesh More, the Local Inspector, had carried out inspection at M/s Maple Digital Technology International Pvt Ltd, B 5 Bldg, Kailas Ind. Complex, Veer Savarkar Marg, Vikhroli (W), Mumbai, 400 079, and, it was found that the Petitioner and Manil Bhaskar Shetty, the husband of the Petitioner, were carrying trade without a licence.

4. The learned Counsel for the Petitioner submitted that; firstly, the complaint was not tenable as M/s Maple Digital Technology International Pvt Ltd, which is a private limited company and was allegedly running the said trade, was not implicated as an accused in the said complaint.

5. Secondly, the Petitioner had tendered resignation from the post of director of the said company with effect from 21st June 2021. On the alleged date of inspection dated 3rd August 2023, the Petitioner had no concern with the aforesaid M/s Maple Digital Technology International Pvt Ltd. It was further submitted that in the wake of the matrimonial dispute the marriage between the Petitioner and her quondam husband,

Mr. Manil Shetty, was dissolved by a decree of divorce on 27th December 2021. Attention of the Court was invited to the decree passed by the Family Court at Bandra and copy of the resignation letter dated 21st June 2021 which was notarized on 17th December 2021, in proximity to the passing of the decree for dissolution of the marriage.

6. The learned Counsel for Respondent No.2 submitted that the complaint was lodged on the basis of the inspection carried out by the Local Inspector. Reliance was sought to be placed on the Inspection Report (Page 32) of the Petition.

7. *Prima facie* it appears that the Petitioner was not present when the local inspection was carried out by the Inspector on 3rd August 2023. There is material on record to indicate that the Petitioner has tendered resignation from M/s Maple Digital Technology International Pvt Ltd in the month of June 2021, and, it was notarized on 17th December 2021. The decree of divorce passed by the learned Judge, Family Court, on 27th December 2021 lends credence to the claim of the Petitioner that the marriage between the Petitioner and her quondam husband, Manil Shetty was dissolved, and she had tendered resignation much prior to the passing of the decree of divorce on account of the matrimonial dispute.

8. In the face of the aforesaid material, the learned Counsel for Respondent No.2 fairly submitted that the prosecution against the Petitioner cannot be sustained.

9. In the backdrop of the material adverted to above, *prima facie*, the Court finds that no case is made out against the Petitioner. The Petitioner seems to have resigned from the company much prior to the inspection in question, on the strength of which the prosecution has been initiated. The continuance of the prosecution against the Petitioner, in the circumstances of the case, will be an abuse of process of the Court.

10. Thus, I am inclined to allow the Petition.

11. Hence, the following order:

: O R D E R :

- (i) The Petition stands allowed.
- (ii) The impugned order of issue of process stands quashed and set aside qua the Petitioner.
- (iii) The complaint may proceed against the rest of the accused in accordance with law.
- (iv) Rule is made absolute to the aforesaid extent.

No costs.

[N. J. JAMADAR, J.]