

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 195 OF 2026

Sunil Murlidhar Bhagat

..Applicant

Versus

State of Maharashtra & Anr.

...Respondents

Mr. R B Munekar, a/w Sudhanshu Sawant, for the Applicant.
Smt. S G Talhar, APP for the Respondent-State.

CORAM: N. J. JAMADAR, J.

DATE : 06th FEBRUARY 2026

P.C.:

1. Heard the learned Counsel for the applicant.
2. The challenge in this petition is to an order 18th December, 2025 passed by the learned Magistrate on an application filed by the applicant-complainant seeking dropping of the Accused No. 5 from the Complaint CC No. 115/SS/2025. The learned Magistrate has rejected the application by simply observing that, there is no provision under the Code of Criminal Procedure for dropping of the one of the accused and, thus, rejected the application, as being untenable.
3. The learned Counsel for the petitioner submits that, since the petitioner has filed the private complaint being CC No. 115/SS/2025 and the dispute between the petitioner and the

Accused No. 5 was amicably resolved in accordance with the consent terms executed between the parties in RAE Suit No. 1430/2024, the complainant was within his rights in seeking the withdrawal of the complaint qua Accused No. 5.

4. Attention of the Court was invited to the provisions contained in Section 257 which permits the withdrawal of a complaint qua one of the accused, when there are more than one accused. Reliance was placed on a judgment of this Court in the case of *Ramrao Bhikaji Bodkhe V. Mohammad Ashfaq*¹.

5. Evidently, the learned Magistrate did not bestow his consideration to the provisions contained in Section 257 of the Code of Criminal Procedure, 1973, which enables the complainant to withdraw the complaint against one of the accused, when there are more than one accused. The learned Magistrate ought to have examined the issue in the light of the provisions contained in Section 257 of the Code and passed a reasoned order.

6. It is for the learned Magistrate to arrive at a satisfaction whether, there are sufficient grounds to permit the applicant/complainant can be permitted to withdraw the complaint against one of the accused. However, the application

1 2011 SCC OnLine Bom 1281

could not have been rejected straightaway on the ground that, it was untenable. Thus, the impugned order deserves to be quashed and set aside.

7. The impugned order stands quashed and set aside.

8. The application for dropping of the Accused No. 5, which is essentially in the nature of withdrawal of the complaint against Accused No. 5, stands remitted back to the learned Magistrate for a fresh decision in accordance with law.

9. The learned Magistrate is requested to pass an appropriate order in accordance with law as expeditiously as possible.

10. The application stands disposed.

[N. J. JAMADAR, J.]