

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3289 OF 2014

Chaitanya Properties Developers Pvt. Ltd. ..Petitioner.

Versus

The Commissioner of Police & Others. ..Respondents.

Mr. Rizwan Merchant i/b Rizwan Merchant & Associates for the
Petitioner.

Mr. F. R. Shaikh, learned APP for the State.

with

CRIMINAL APPLICATION No. 562 OF 2014

IN

WRIT PETITION NO. 3289 OF 2014

Mrs. Kantadevi R. Gupta and Others. ..Applicants.

In the matter of

Chaitanya Properties Developers Pvt. Ltd. ..Petitioner.

Versus

The Commissioner of Police & Others. ..Respondents.

Mr. A. H. Ponda i/b Mr. R. U. Singh for the Applicants.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 24, 2014.**

P. C. :

1. The writ petition is filed invoking the jurisdiction of this Court under Article 226 of the Constitution of India seeking direction to the Respondents to register an offence on the basis of complaint lodged by the Petitioner on 29th May 2014 with the Respondents.

2. The main grievance raised by the Petitioner in this petition is that the officers who are investigating his complaint are in collusion with the accused persons and therefore as on today no FIR is registered on his complaint.

3. Learned APP for the State, having taken instructions from the police officer, who is personally present in the Court, makes a statement that if the Petitioner approaches Santacruz Police Station, his statement would be recorded and he may also file necessary documents in support of his complaint, and thereafter preliminary enquiry will be carried out and further action - decision would be taken in accordance with law.

4. The persons alleged to be the accused in the complaint lodged by the Petitioner have come up before this Court by way of intervention application bearing Criminal Application No.502 of 2014. We also heard Mr. Ponda, the learned Counsel appearing on their behalf.

5. Mr. Merchant, learned Counsel appearing for the Petitioner states that in view of the specific allegations of the Petitioner against Mr. Washim Shaikh, S.I. and Mr. Kundalkar, P.I., the preliminary enquiry may be directed to be conducted by any other senior officer of police. Mr. Shaikh, learned APP for the State and Mr. Ponda, learned Counsel appearing for the Intervenors state that without going into the merits of those allegations, they have no objection if the preliminary enquiry is conducted by any other police officer than Mr. Shaikh and Mr. Kundalkar. In the light of this fact-situation, without going into merits of the allegations made in the petition against the said police officers, we direct the Senior Police Inspector of Santacurz Police Station to hold the preliminary enquiry on the complaint lodged by the Petitioner and take appropriate decision within two weeks from the date on which the Petitioner appears before him.

6. Intervenor Application as well as Writ Petition stand disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]