

JPP

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

CRIMINAL WRIT PETITION NO. 62 OF 2015

Alya Kana Mundhkar.

... Petitioner.

V/s.

The State of Maharashtra and Ors.

... Respondents.

Mr. Prakash Naik a/w. Mr. Prashant Patil for the Petitioner.
Mrs. A.S. Pai, APP for the State.

**CORAM : P.V. HARDAS &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.**

MAY 08, 2015.

P.C. :-

This is a Petition under Article 226 of the Constitution of India by which the Petitioner has prayed for issuance of a Writ of Mandamus directing Respondent No.6 to carry out further investigation in connection with R.C.C.No.470 of 2014 pending on the file of the Judicial Magistrate, First Class, CBD, Belapur which arises out of Crime No.10 of 2013.

2. During the course of hearing of this Petition, the learned APP has submitted before us that the Petitioner, who is the Complainant can independently submit an Application to the learned Magistrate before whom the case is pending

invoking the jurisdiction/powers of the learned Magistrate to direct further investigation.

3. In the light of the said statement made by the learned APP, Mr. Prakash Naik, learned Counsel for the Petitioner states that the Petitioner may be permitted to withdraw this Petition keeping all issues and contentions raised in the Petition open and submit an Application before the learned Magistrate for invoking the jurisdiction of the Magistrate to direct further investigation. A liberty is also prayed for by the Petitioner of filing appropriate proceedings including the filing of a Petition for seeking the relief which is prayed for in this Petition in the event, an order is passed by the Magistrate which is adverse to the Petitioner.

4. We accordingly dismiss this Petition as withdrawn keeping all issues and contentions raised in this Petition as open with the liberty as prayed for.

5. In the circumstances, there shall be no order as to costs.

(DR.SHALINI PHANSALKAR-JOSHI, J.) (P.V. HARDAS, J.)