

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1120 OF 2015

Rohan Kowli and Others.

..Petitioners.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Mahesh Jethamalani, Senior Advocate with Gunjan Mangla i/b
Mandar Soman for the Petitioners.

Mr. Pradip Gharat, Special PP for the State.

Mr. G. I. Anand, Respondent No. 2-in-person.

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

Date : **April 7, 2015.**

P. C. :

1. Heard. By this petition, the Petitioners are seeking
following reliefs :

(A) *this Hon'ble Court may be pleased to call for the records and proceedings of of FIR being EOW/CR No.78/2013 (Oshiwara Police Station C.R.No.316/2013) lodged with Unit-III, CB, CID, Mumbai and after perusing the same, be pleased to quash and set aside the FIR along with all further proceedings in pursuance thereto as being sheer abuse and misuse of process of law and Court, in the interest of justice;*

(B) *this Hon'ble Court may be pleased to direct that the Petitioners may not be restrained for doing the business of multi level marketing / marketing of the product of above named Company M/s. Vihaan Direct Selling (India) Pvt. Ltd. or any other company as may be permissible under law, in the interest of justice;*

(C) this Hon'ble Court may be pleased to direct the investigating agency not to arrest any of the Independent Representative of M/s. Vihaan Direct Selling (India) Pvt. Ltd. including the present Petitioners, in pursuance of FIR being EOW/CR No.78/2013 (Oshiwara Police Station C.R.No.316/2013) lodged with Unit-III, CB, CID, Mumbai, in the interest of justice;

(D) this Hon'ble Court may be pleased to take appropriate steps against the erring police officers/ investigating officer for committing willful breach of the principles laid down by the Hon'ble Apex Court in the case of Arnesh Kumar v. State of Bihar reported at (2014) _____ SCC _____, in the interest of justice."

2. Mr. Gharat, the learned Sp. PP for the State, having taken instructions from the officers, makes a statement that so far as the Petitioners herein are concerned, no FIR is registered against them as on date. Hence, the Petitioners are not entitled to seek in prayer clause (A). Furthermore, the reliefs sought in prayer clause (B) is not maintainable and cannot be granted in this proceedings. Similarly, the relief sought at prayer clause (D) is premature and not maintainable.

3. As regards prayer clause (C), Mr. Jethmalani, the learned Senior Counsel appearing for the Petitioners makes a grievance that the Petitioners are the independent

representatives of M/s. Vihan Direct Selling (India) Pvt. Ltd, a company against which FIR is registered. He submitted that the Petitioners are apprehending arrest in the said FIR as 17 independent representatives like them are already arrested. Learned Sp. PP for the State submitted that in the event the Petitioners are to be arrested in connection with above FIR, 72 hours prior notice will be given to them. In the light of said statement, we do not deem it fit to grant the relief as sought in prayer clause (C).

4. Under the circumstances and in view of discussion supra, the petition is not maintainable and is hereby dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]