

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1242 OF 2014

Vijay Duttatray Gadekar. ..Petitioner.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Prakash Naik i/b Ganesh Bhujbal for the Petitioner.
Mr. J. P. Yagnik, learned APP for the State.
Mr. Avinash B. Avhad for the Applicant – Intervenor.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **April 28, 2015.**

P. C. :

1. The petition is filed seeking direction to transfer of the investigation of CR No.26 of 2009 registered with Kotharud Police Station to the CBI or State CID.

2. Learned APP for the State submitted and which fact is not disputed by learned Counsel appearing for the Petitioner, that charge-sheet is filed after completion of investigation and trial has already commenced. Investigation Officer has also carried out further investigation under section 173(8) of the Code of Criminal Procedure, 1973 and has submitted report. Mr. Naik, learned Counsel appearing for the Petitioner

submitted that real culprits are not being tried.

3. Since trial has already commenced, nothing remains to be investigated. Prayer for transfer, therefore, does not survive. In that view of the matter, we are not inclined to entertain this writ petition and the same is dismissed.

4. It needs no mention that the Petitioner is always at liberty to bring to the notice of the trial Court, invoking the provisions of section 319 of the Code of Criminal Procedure, 1973 that the persons not charge-sheeted by the police, have role to play in the commission of offence. If it appears to the Magistrate from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, Magistrate may proceed against such person also.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]