

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

CRIMINAL WRIT PETITION NO. 1683 OF 2013

Mohan Hirachand Shah

..Petitioner

v/s.

The State of Maharashtra & ors.

..Respondents

Mr. Vinayak G. Indrale for the Petitioner.

Mr.J.P.Yagnik, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JUNE 17, 2015.**

P.C.

1. Heard learned Counsel for the petitioner and the learned APP for the State.
2. This petition is filed seeking direction to transfer the investigation of FIR No.16 of 2011 registered with Mandava Police Station, Alibag from CID, Crime Branch to Local Crime Branch, Alibag.
3. It is worth to mention that the petitioner earlier approached

this court and filed Criminal Writ Petition No.3952 of 2011 for transferring investigation of the said FIR, and at his instance the investigation of the said FIR was transferred to the State CID.

4. That apart, Mr. Yagnik, learned APP states that the investigation of the said FIR is completed by the State CID and the conclusion is arrived that the dispute between the parties is of civil nature. Accordingly, they have prepared report under Section 169 of Cr.PC. and forwarded it to the higher officer and after approval of the same, will be filed before the concerned Magistrate. In support of the statement he placed on record report dated 6.4.2015 of the Dy.S.P CID, Raigad, Alibag.

5. It may also be mentioned that the petitioner filed civil suit which was dismissed by the trial court. However, same was allowed by the lower Appellate Court. Though this decree is confirmed by the High Court in second appeal, the defendant in the said suit has approached the Supreme Court, and the Supreme Court has granted stay to the execution of the decree passed by the Lower Appellate Court. The dispute in the present C.R. is about the land which is the subject matter of the special leave petition before the Supreme Court.

6. In the above circumstances, we are not inclined to transfer the investigation. The petition is dismissed. The petitioner is always at liberty to file protest petition, in the event the report under Section 169 is filed before the concerned Magistrate.

7. Copy expedited.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)