

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2838 OF 2014

Tousif Khalil Shaikh.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Prashant Bhavake for the Petitioner.

Mr. J. P. Yagnik, learned APP for the State.

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

Date : **February 2, 2015.**

P. C. :

1. Heard Mr. Bhavake, learned Counsel appearing for the Petitioner and learned APP for the State. This writ petition under Article 226 of the Constitution of India is filed, inter alia, for the following reliefs :

- “(b) By suitable writ, order or direction, this Hon'ble Court be pleased to direct Respondent Nos.1 to 4 to hold appropriate investigation of custodial torture of the Petitioner committed by Respondent Nos. 5 to 12 during so-called investigation pursuance to C.R. No.222 of 2013 registered with Karvir Police Station, Kolhapur and accordingly be pleased to further direct Respondent Nos.1 to 4 to take appropriate legal action against the said Respondent Nos. 5 to 12.
- (c) By suitable writ, order or direction, this Hon'ble Court be pleased to direct Respondent Nos.5 to 12 to return all the remaining business equipments of the Petitioner.”

2. So far as the allegations made by the Petitioner regarding custodial torture is concerned, the same cannot be accepted in the light of order dated 14th March 2014 passed by the learned JMFC, Kolhapur in remand application wherein the JMFC has recorded that the Petitioner was present before him and the Petitioner had made no complaint against the investigating agency.

3. So far as the reliefs claimed in prayer clause (c) is concerned, the averments are made in paragraph 13 of the petition. The Petitioner alleges that Respondent Nos.5 to 10 have taken business equipments from his shopee and same are not returned to him. The allegations are also made that the amount of Rs.50,000/- was asked by Respondent Nos.6 and 10, if the Petitioner wants his business equipments back. The Petitioner has alleged that those business equipments were taken from his shopee on 14th March 2014. The Petitioner was arrested and released on bail and finally investigating agency filed report under section 169 of the Code of Criminal Procedure, 1973. During this time, the Petitioner has not made any complaint nor he has given any details about the business equipments. In our considered view since the allegations of bribery are made against the police officers-Respondent Nos.6 and 10, it would be appropriate that these allegations are enquired into by the senior police officers. In the light of above, petition is disposed of by directing Respondent No.4 - the Superintendent of Police, Kolhapur to enquire into the

allegations made by the Petitioner in paragraphs 10 and 13 of the petition regarding taking of business equipments from the the Petitioner's shoppe by Respondent Nos.5 to 10 and demand of bribery. Respondent No. 4 shall conduct the enquiry expeditiously and take appropriate decision in the matter within the period of six weeks from the date of receipt of a copy of this order.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]