

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3242 OF 2015

Nadeem Mumtaz Khatri.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Satyam R. Gaud for the Petitioner.

Mrs. U. V. Kejriwal, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **November 19, 2015.**

P. C. :

1. The reliefs sought by the Petitioner are as under :

- "b) that this Hon'ble Court be pleased to issue appropriate writ order by way of issuing direction(s) to Respondent No. 2 to 4 as to take cognizance under section 307 of IPC against all the accused instead of section 326 of IPC in existing offence registered in CR.No. 540 of 2014 registered on 14.9.2014.
- c) That this Hon'ble Court be pleased to transfer the investigation of present crime in CR No. 540 of 2014 to the concern State Crime Branch (CB-CID) from Santaruz Police Station, in the interest of justice and for fair investigation.
- d) Hon'ble Court directs Respondent No. 4 to record the correct version of the Petitioner and insert the names of other accused, i.e., Aziz Sayyed, Lala Sayyed and Zulfikar, who are responsible for such attack.
- e) That Hon'ble Court further be pleased to issued direction(s) to Respondent No. 2 and 4 to caused

immediate arrest of all the absconding original accused in CR No. 540 of 2014 (if not arrested yet).

- f) Hon'ble Court be pleased to issue appropriate direction(s) to Respondent No. 3 for providing appropriate security from the hands of the accused persons and their associates considering the threat perception to the Petitioner.”

2. Mrs. Kejriwal, learned APP for the State makes a statement that now investigation in the subject FIR is being carried out by Mr. Shrikant Desai of Santacruz Police Station and the investigation is being supervised by the DCP, Zone-IX. In the light of statement, we are not inclined to consider prayer clause (c).

3. For the relief claimed in prayer clause (f), the Petitioner is at liberty to make a suitable application for police protection before the Competent Authority. Suffice it would be to state that authority concerned shall take decision on such application at the earliest.

4. In the event Petitioner approaches Mr. Desai - new IO with a request to record his supplementary statement. Mr. Desai, will record the same. This takes care of the relief claimed in prayer clause (d).

5. So far as prayer clause (b) is concerned, on the basis of the Petitioner's FIR, the accused have already been charged

with the offence punishable under section 326 of IPC. The investigation in the said FIR is in progress. Therefore, no such directions as sought in prayer clause (b) can be issued at this stage.

6. With the aforesaid directions, writ petition is disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]