

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 227 OF 2015

(Baba s/o Bhagwanji Dongre vs. State of Maharashtra thr. Anti Corruption Bureau, Nagpur)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
JULY 06, 2015.**

Heard Shri Wahane, learned counsel for the applicant and Shri Doifode, learned APP for the respondent.

The matter is being heard by this Court since last two to three dates.

Three contentions were raised by Shri Wahane, learned counsel. First one is, a Police Sub-Inspector is not competent to investigate the offence. Second one is, Istagasa were closed on 16.02.2015 and there is no evidence of any demand in relation to those proceedings either on 16.02.2015 or before that. The contention is, the trap dated 21.02.2015 cannot be in this situation in relation to that Istagasa. It is lastly submitted that there cannot be any investigation until and unless FIR is first lodged with a proper Police Station.

The learned counsel submits that in all matters, the FIR is lodged only after trap proceedings and hence the entire material being produced before this Court showing developments prior to 21.02.2015,

is irrelevant and cannot be looked into.

The learned APP has shown to this Court the orders by which Investigating Officer was promoted as Police Sub-Inspector and posted in Anti Corruption Bureau. In ACB, because of the policy decision taken way back in the year 1995, he has been designated as Inspector and in terms of proviso to Section 17 of Prevention of Corruption Act, 1988, there is delegation in favour of the Inspector working with ACB, as such competency of the officer to investigate, is not in dispute.

It is no doubt true that the order sheets produced by the applicant show that the proceedings have been closed on 16.02.2015. However, the records of talk between the applicant and the complainant annexed with the petition and also pointed out by the learned APP, prima facie show a demand and an effort even after 16.02.2015 for its fulfillment. Istagasa are closed on 16.02.2015 and recording allegedly made on 17.02.2015 shows the efforts being made to recover the amount of Rs.10,000/-. In this situation, it is apparent that closure of proceedings on 16.02.2015 by itself cannot be held to be decisive at least at this stage.

The last contention is, in all such matters, without lodging FIR, the proceedings commence and FIR is registered only after trap is laid. From the scheme of Act and also the circumstances at hand, it is apparent that the authorities have, after completing preliminaries and recording of panchanamas, proceeded to register the offence.

In this situation, contention that they have acted without any authority of law has not been substantiated. We need not, therefore, record any finding on this challenge and its legality, if any, can be looked into at appropriate juncture as and when the occasion therefor arises.

We find no case warranting interference. Criminal Application is accordingly rejected. No order as to costs.

JUDGE

JUDGE

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