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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1319 OF 2016

Mr. Pankaj Babulal Kotecha

.. Petitioner

Vs.

1. State of Maharashtra and ors.

.. Respondents

WITH
CRIMINAL APPLICATION NO. 263 OF 2016
IN
CRIMINAL WRIT PETITION NO. 1319 OF 2016

Shri Vivekanand Dayanand Gupta

.. Applicant

In the matter of

Mr. Pankaj Babulal Kotecha

.. Petitioner

Vs.

1. State of Maharashtra and ors.

.. Respondents

Mr. P. M. Havnur a/w S. S. Kharat and Radhika Samant for petitioner.

Mr. K. V. Saste, APP for State.

Mr. Girish Kulkarni i/by Mrunmai Kulkarni for MDDC Bank.

None for the applicant in APPW No. 263/16, but Mr. V. D. Gupta,
applicant-in-person is present.

CORAM: NARESH H. PATIL &
PRAKASH D. NAIK, JJ.

JULY 05, 2016.

P.C.

1. The petitioner's contention is that he filed a complaint addressed to Sr. Inspector of Police, M.R.A. Marg Police Station on 24/4/2015 requesting for registration of FIR against the office bearers and managing committee of Mumbai District Central Co-operative Bank Ltd. (MDCCB). It is the allegation of the petitioner in the complaint that accused have systematically looted the amount to the tune of Rs.1000 to 1200 Crores.

2. On 8/5/2015, the Sr. Inspector of Police, Ward -1, Officer of the Economic Offence Wing, communicated to the petitioner that investigation has been initiated against the present and Ex-Chairman, Director and officers of the Mumbai District Cooperative Bank vide C.R. No. 21 of 2015 for offences punishable under Sections 420, 409, 465, 467, 468, 471, 120-B with Section 214 of the IPC as per the complaint filed by Advocate Vivekanand Gupta in respect of cheating to the tune of Rs.123 crores, including allegation of misappropriation of funds in collusion with each other. The Investigating Officer informed that EOW was investigating into the similar type of allegations and, therefore, it was not necessary to register a separate offence.

3. It is submitted that the petitioner filed a Writ Petition bearing No. 2490 of 2014. Consequent to the order passed the Division Bench in the said writ petition on 6/4/2015, petitioner had filed such a complaint.

4. Learned APP submits that on the similar and the identical nature of allegations, the EOW is seized with the investigation in an offence registered on the complaint made by Advocate Vivekanand Gupta vide C.R. No. 21 of 2015. Learned APP on instructions further submits that 58 crimes were registered at V.B. Marg Police Station, which were clubbed together and were transferred to EOW for further investigation and the EOW has registered the same under C.R. No. 67 of 2012. Learned APP, therefore, submits that the successive FIR on the same cause of action was not maintainable.

5. Learned counsel appearing for the petitioner submits that at least the Investigating Agency should have called the petitioner for getting any other material information in respect of the allegations made by the petitioner. Learned counsel submits that in case the petitioner is called by the Investigating Agency, he would place before them necessary material in

support of his allegation which could be used by the Investigating Agency during the course of investigation. Learned APP submits that the Investigating Agency would call the petitioner and take necessary steps as part of the investigation.

6. The petition, therefore, stands disposed of.

7. Criminal Application No. 263 of 2016 does not survive and stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL,J.)