

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.15 OF 2015

Ketan K. Tirodkar Petitioner
Vs.
Central Bureau of Investigation & Anr. Respondents

WITH

WRIT PETITION NO.1565 OF 2015

Ms Smita Pansare & Anr. Petitioners
Vs.
State of Maharashtra Respondent

WITH

WRIT PETITION NO.3512 OF 2015

Ms Mukta Dabholkar & Anr. Petitioners
Vs.
The Central Bureau of Investigation & Ors. Respondents

WITH

**APPLICATION NO.159 OF 2016
{For Intervention}
IN
WRIT PETITION NO.1565 OF 2015**

Sameer Vishnu Gaikwad Applicant
In the matter of
Ms Smita Pansare & Anr. Petitioners
Vs.
The State of Maharashtra Respondent

Mr. Ketan K. Tirodkar, Petitioner in-person in CRPIL-15/2015.

Mr. Abhay Nevagi with Mr. Sandesh Shukla, Ms Prerana Patil and Mr. Santosh Sawant i/by Abhay Nevagi and Associates for the Petitioners in WP-1565/2015 and WP-3512/2015.

Mr. Anil C. Singh, Additional Solicitor General with Mr. D.A. Nalawade, Special Counsel and Mr. D.P. Singh for the CBI in CRPIL-15/2015, WP-1565/2015 and WP-3512/2015.

Mr. S.K. Shinde, PP, with Ms M.M. Deshmukh, APP, for the Respondent-State in WP-1565/2015.

Mr. Sanjeev G. Punalekar for the Applicant/ Intervener in APPW-159/2016 in WP-1565/2015.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR JOSHI, JJ.

DATE : APRIL 27, 2016

P.C:

1. At the request of both Mr. Shinde and the learned Additional Solicitor General, we post this matter on **3-5-2016**. To be listed on the Supplementary Board.

2. We have heard Mr. Punalekar, who sought to intervene in the Criminal PIL and for one of the arrested accused. He submitted that the anxiety of this accused is that on

account of certain observations and which are made in para 3 of the order passed on 29-2-2016 in Criminal Writ Petition No.1565 of 2015 and Criminal Writ Petition No.3512 of 2015, the learned trial Judge may not be in a position to proceed, though the trial is scheduled on 29-4-2016.

3. We do not think that the order passed, and particularly the observations made in para 3, would in any manner prevent the trial Court from proceeding in accordance with law. It is for the prosecution to file such reports and after obtaining such leave as is permissible in the Code of Criminal Procedure, 1973. We expect the trial Judge to strictly abide by the provisions of the Code of Criminal Procedure in that behalf. Further, the trial Judge ought to be aware of and we have no doubt regarding that, there are enough powers in the Trial Court as far as the investigation is concerned and equally of arraigning new persons as accused. The provisions of Sections 173 and 319 of the Code of Criminal Procedure would be definitely borne in mind by the Trial Court. Equally the principles laid down in **Vinay Tyagi Vs. Irshad Ali**, reported in (2013) 5 SCC 762 and

in **Hardeep Singh Vs. State of Punjab** (AIR 2014 SC 1400)

would bind the Competent Criminal Court.

4. Since above aspects take care of the anxiety of the petitioners and arrested accused, we do not think that the application filed by Mr. Punalekar needs to be kept pending. It is disposed of.

5. The only anxiety that was expressed by this Court during the hearing today was the early conclusion of the investigations since the first incident is of August, 2013 and the second one is of February, 2015. Eventually, the investigations and which are in progress must result in some concrete steps taken by the prosecution. We are assured by the learned Additional Solicitor General that a report will be placed before us on the next date of the investigations till date in the Dabholkar murder case. Equally, Mr. Shinde states that steps would be taken and the prosecution would approach such authorities as are permissible in law in order to obtain a report from the appropriate laboratory. It is stated that the

muddemal/samples have been handed over to the Central Bureau of Investigation (CBI) on 18-2-2016. We would expect the Additional Solicitor General to take instructions from the concerned CBI officers and equally the laboratory and inform us on the next date as to when it will communicate and forward its report.

(DR. SHALINI PHANSALKAR JOSHI, J.)

(S.C. DHARMADHIKARI, J.)