

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1775 OF 2016

Ajimuddin Ajarat Uddin Shaikh & Ors....	Petitioners
vs.	
The State of Maharashtra	... Respondent

Mr. T.M.Sagari, Advocate for the petitioners.
Mr. A.R.Patil, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 20th June, 2016.

P.C.

Heard. Rule. Rule made returnable forthwith with the consent of the parties.

2. The petitioners herein, being aggrieved by the order dated 22.4.2016 passed by 3rd Joint JMFC & CJJD, Vaduj, have filed the present Petition. The order reads as follows :-

“Perused the application, record of the matter and say of I.O. The prosecution has alleged that the accused persons have stolen vehicle of the informant. From a plain reading of section 173(8) of Cr.P.C., it is evident that even after completion of investigation under sub section (2) of Section 173, the Police has right to further investigate under sub

section (8). Hence the application is allowed.”

3. The records would reveal that one Kastura Kisan Gadve had filed a report before Aundh Police Station, Aundh that her truck was stolen. She had filed the report on 17.11.2012. On the basis of her report, Crime No.78 of 2012 was registered against six persons. The investigation was completed and charge-sheet was filed on 29.6.2014. The case is registered as RCC No.146/2014. It appears from the records that the original complainant had reliably learnt about conspiracy hatched by charge-sheeted accused and the present petitioners in stealing the truck. The complainant was of the opinion that the investigation has not been carried out in proper direction and hence she had made a representation to the Hon'ble Chief Minister of the State of Maharashtra as well as to the Director General of Police and other authorities. She had specifically contended that in the eventuality that there is further investigation and enquiry in the said case, the truth may be revealed and the truck would be found. She expressed that she had suspected the present petitioners to have conspiracy with the original accused persons. It appears that the Hon'ble Chief Minister had directed the District Superintendent of Police, Satara, to personally look into the matter.

4. On 28.3.2016, the API Aundh filed an application before the Judicial Magistrate, First Class, Vaduj, praying therein that the case requires further investigation. It appears that the application was filed independently without being influenced by any direction of any authority. In the application, the API had specifically stated that the complainant had received reliable information that the present petitioners had purchased the said truck despite having knowledge that it was a stolen truck and had created third party interest. It is quite natural that the complainant had assisted the investigating agency to search for the truck as she had reliable information. In the interest of justice, the learned Magistrate had directed to further investigate the matter under Section 173(8) of Cr.P.C. This Court cannot be oblivious of the fact that the present petitioners are the proposed accused in the said case. That the proposed accused would have no locus to challenge the order passed under Section 173(8) of Cr.P.C. as they are not in picture at this stage. There is nothing on record even to prima facie show that the investigating officer has arraigned present petitioners as accused and, therefore, the prayers in the petition are not only misconstrued, but it is a premature petition seeking the relief of quashing of the said order.

5. The learned counsel for the petitioners submits that in fact

there can be further investigation and if need be the learned Magistrate at the stage of recording evidence could have arraigned the present petitioners as accused under Section 319 of Cr.P.C. The submission itself is misconstrued. Unless there is material on record in the form of the charge-sheet to show that the present petitioners are accused, the complainant or the other witnesses would also not be able to substantiate before the Court that they are accused because that would be the submission for the first time before the Court at the time of trial. Hence, the said contention is unfounded.

6. In the above circumstances, this Court is of the opinion that the petition being sans merits, deserves to be rejected. Rule is discharged. Writ Petition stands dismissed.

7. The learned Magistrate or the investigating agency shall not be influenced by the observations made hereinabove.

(SMT.SADHANA S.JADHAV, J.)