

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL PUBLIC INTEREST LITIGATION NO.20 OF 2016

Dhanaji Ganpati Vaidha. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri Gautam TG. Kanchanpurkar for the Petitioner.
Mrs. S.V. Sonawane, APP for the State.
Shri Manoj A. Patil for the Respondent Nos.11 to 20.
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CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ

DATED : 18TH NOVEMBER 2016

PC.

1. Heard learned counsel appearing for the Petitioner. The only substantive prayers in this PIL are the prayer clauses (b) and (c) which read thus:

“(b) To issue a Writ of Mandamus or any other Writ, order or direction in the like nature and to direct the Respondent No.1 to conduct a thorough enquiry in the said Scheme known as “VASUNDARA PANLOT AKATMIKA YOJNA” carried out in the Village Hedawade through the State Crime Branch or through Central Bureau of Investigation;

(c) To issue a Writ of Mandamus or any other writ, order or direction in the like nature and to direct the Respondent No.1 to take action against the persons found guilty in the enquiry, as per law.”

2. If according to the Petitioner, any offence has been committed, he ought to have taken recourse to Section 154 of the Code of Criminal Procedure, 1973.

3. It is not the case of the Petitioner that he made an attempt to set the criminal law in motion by taking recourse to Sub-section (1) and Sub-section (3) of Section 154 of the Code of Criminal Procedure, 1973. Therefore, the prayer clause (b) directing the inquiry through either the State Crime Branch or Central Bureau of Investigation cannot be considered at all. The State Crime Branch or Central Bureau of Investigation can come into picture only if there is a registration of an offence. As far as the prayer clause (c) seeking writ of mandamus directing the Respondent No.1 to take action against the persons found guilty in the inquiry is concerned, for the reasons recorded earlier, the inquiry as prayed for at the hands of the State Crime Branch or Central Bureau of Investigation cannot be ordered. Therefore, there is no question of directing the State to take action on the basis of the inquiry conducted by the State Crime Branch or Central Bureau of Investigation. Therefore, both the substantive reliefs prayed for cannot be granted in this Criminal PIL under Article 226 of the Constitution of India. We, therefore, decline to entertain this PIL. However, remedies of the Petitioner are kept open. The Petitioner can always set the

criminal law in motion by taking recourse to Section 154 of the Code of Criminal Procedure, 1973.

4. All contentions on merits are kept open.

5. Place the Criminal PIL No.19 of 2016 high upon board on 28th November 2016.

(SMT. ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)