

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL PIL NO. 27 OF 2015

Jivan S/o. Veersing Rajput .. Petitioner

V/s.

The State of Maharashtra & Anr. .. Respondents

.....

Mr. Vinod Chate i/b. M/s. Chate & Associates, Advocate for the
Petitioner.

Mr. S. K. Shinde, PP and Mr. J. P. Yagnik, APP for Respondent
No.1 - State.

Mrs. Sharmila U. Deshmukh & Ms. Rupali Dixit, Advocate for the
Respondent No.2.

Mjr. Vivek V. Salunke, Applicant in person in Application No.50 of
2014.

.....

CORAM : A.S. OKA AND P.D. NAIK, JJ.

DATED : APRIL 25, 2016.

P.C.

Heard the learned counsel appearing for the
petitioner. The learned PP for the first respondent and the
learned counsel appearing for the 2nd respondent. The only
substantive prayer in this PIL is for issuing a writ of mandamus
directing the State of Maharashtra to register First Information

Report (FIR) on the basis of complaints filed by the PIL Petitioner. According to the case of the petitioner, an officer of Maharashtra Pollution Control Board has indulged in a large scale corruption in the transaction of acquiring McAfee Antivirus Software. The learned counsel appearing for the petitioner invited our attention to the annexures to the petitions and reply filed by Smt. Sujata Shete, Accounts Officer (Establishment) of the Maharashtra Pollution Control Board. He submitted that in the preliminary inquiry conducted by the Maharashtra Pollution Control Board, *prima facie* substance was found in the allegations of the petitioner regarding the misuse of the funds of the Maharashtra Pollution Control Board. He pointed out that in fact, a disciplinary inquiry has been ordered to be initiated by the Pollution Control Board against the erring officer.

2 The learned Public Prosecutor produced for perusal of the Court a report dated 14th September, 2015 submitted by the Inspector of Police, Anti Corruption Bureau, Mumbai to the Additional Commissioner who is incharge of the Anti Corruption Bureau. It records that on the basis of the application made to the Anti Corruption Bureau, an inquiry was made by a police officer who has submitted a report recommending closure of the inquiry.

In the said report submitted by the Police Officer attached to the Anti Corruption Bureau it is stated that though on 11th August, 2015, the petitioner was called upon to remain present for recording his statement, he did not remain present.

3 We have considered the submissions. The affidavit filed by Smt. Sujata Shete on behalf of the Pollution Control Board records that fault was found in the conduct of one Shri Banate who was the in-charge of the Stores Department. It is pointed out in the affidavit that a show-cause notice was issued to Shri Banate calling upon him to show cause as to why proceedings should not be initiated against him under the Maharashtra Civil Service (Disciplinary and Appeals) Rules, 1979. It is stated that after considering the reply submitted by Shri Banate, an inquiry was initiated and even charge-sheet was served to Mr. Banate.

4 As stated earlier, in the preliminary inquiry conducted by the Anti Corruption Bureau, nothing wrong was found.

5 As far as the failure of the police machinery is concerned, the petitioner has a statutory remedy available.

Moreover, except for stating that the petitioner is a Social Worker and is qualified in the Environment science, no particulars of the same have been set out in the petition and no documents to that behalf have been annexed to the petition.

6 As an action is already initiated by the Maharashtra Pollution Control Board against the erring officer and as the petitioner has remedies available as far as prayer clause (a) is concerned, it is not necessary to entertain this PIL. Accordingly, PIL is disposed of. All contentions on merits are kept open. We make it clear that no adjudication has been made on the issue of locus of the petitioner to maintain the present PIL.

(P.D. NAIK, J.)

(A.S. OKA, J.)