

hvn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4011 OF 2014

Alim Abu Baker Chagla	..	Petitioner.
V/s.		
State of Maharashtra and Ors.	..	Respondents

Mr. Mr. Anirban Tripathy for the petitioner.

Mrs. S.V. Sonavane, APP for the State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : FEBRUARY 17, 2016**

P.C. :-

1. Heard the learned counsel for the petitioner and the learned APP for the State.

2. The Petition is filed for the following reliefs:

“(a) a writ of mandamus or any other appropriate writ be issued directing the Central Bureau of Investigation or a Special Investigation Team be constituted consisting of honest and upright officers to investigate the sordid incident of the petitioner's land grabbing after his registering an FIR on the basis of his statement made before Respondent no. 3 on 11.01.2013 within a reasonable period of time;

(b) that irrespective of who is appointed as the investigating agency the High Court be pleased to monitor the investigation on a regular basis,

(c) that appropriate action be taken against police officers for making false and misleading statements before the High Court with regard to the registration of FIR when no FIR has been registered.

(d) that appropriate action be taken against Respondent no. 3 on account of his deliberate failure to conduct a

proper investigation despite clear directions from the High Court.”

3. The petitioner filed Private complaint being R.C.C. No. 3967 of 2007 seeking action against the accused named therein for the offences punishable under section 395, 341, 427, 447, 147, and 148 of the Indian Penal Code. The Judicial Magistrate, First Class Pune directed inquiry into the allegations made by the petitioner in the said criminal case. It is the case of the petitioner that no FIR is registered in pursuance of the directions. However, the learned APP asserted that FIR was registered as CR No. 3 of 2007 for the offences punishable under section 395, 341, 447, 147 and 148 of the Indian Penal Code with Loni Kalbhor Police Station. The said statement is also noted in the affidavit in para (b) on page 59 in their affidavit and this statement is not denied by the petitioner by filing rejoinder.

4. In pursuance of the above order, investigation was conducted and accordingly “B” Summary report was filed before the Judicial Magistrate, First Class, Pune. Petitioner filed Protest Petition objecting the “B” Summary report submitted by the Investigating Officer. The learned Judicial Magistrate, First Class rejected the “B” Summary report filed by Loni Kalbhor Police Station by his order dated 15th May 2009 and directed the petitioner to lead evidence. Petitioner thereafter appears to have approached this Court by filing a criminal Writ Petition No. 2212 of 2008 and C.A. No. 20 of 2009 in PIL No. 59 of 2008. In this proceedings, the Division Bench of the High Court directed investigation into the

allegations raised by the petitioner in RCC No. 3967 OF 2007 to be carried out under the control and supervision of the Inspector General of Police of Kolhapur Range. In pursuance of the said order of the High Court, once again the investigation into petitioner's allegations was carried out by the SDPO, Haveli Sub Division under the supervision of Inspector General of Police, Kolhapur Range and after completion of the investigation, "B" summary report was filed. By a speaking order, the Magistrate rejected the "B" summary report by making observations that he is not satisfied with the investigation and there is no point in directing the further investigation and accordingly the petitioner was directed to lead further evidence before the process.

5. Petitioner did not lead any evidence in pursuance of this order and directly approached this Court by filing the above writ petition. For the reasons mentioned hereinabove, we find that no case is made out for interference by this Court in exercise of jurisdiction under Article 226 of the Constitution. Petition is accordingly dismissed.

6. In view of the disposal of the petition, nothing survives in the Criminal Application No. 181 of 2015 which is accordingly disposed of.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)