

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4125 OF 2015

Dinanath R. Walawalkar. ..Petitioner.

Versus

State of Maharashtra and Others. ..Respondents.

Mr. Aaditya A. Gore for the Petitioner.

Mrs. S. V. Sonawane, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **February 16, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. The petition is filed seeking direction to Respondent Nos. 1, 4, 5 and 6 or any of them to grant sanction for prosecuting Respondent Nos.2 and 3 for the offence punishable under sections 120B, 166, 182, 203, 211, 217, 218 read with 34 of the Indian Penal Code, 1860.

2. It is the grievance of the Petitioner that at the instance of 7th Respondent, Respondent Nos.2 and 3 registered FIR against the Petitioner and his son without there being any *prima facie* material or reasonable ground to do so, viz., Crime

No. 299 of 2013 dated 26th October 2013 registered with Vanrai Police Station, Goregaon.

3. Learned Counsel appearing for the Petitioner does not dispute that after completion of investigation into above FIR, B-Summary Report has been filed by the police before the concerned Magistrate.

4. We have perused copy of the FIR registered against the Petitioner and his son. On the basis of FIR given by Respondent No.7, since at that point of time, *prima facie* a cognizable offence was disclosed, the police officers were required to take necessary steps, which they have had taken. Subsequently, on investigation it was found that the allegations made by Respondent No.7 were false and incorrect and accordingly police have filed a "B-Summary" Report. We are of the view that police officers have acted in accordance with law on the basis of FIR given by Respondent No.7. After investigation, they have recorded a specific finding that Respondent No.7 appears to be not in a sound mental condition and that might

have led her to file false FIR.

5. In above circumstances, we do not see any reason to prosecute police officers - Respondent Nos.2 and 3. We are abreast of the fact that when police do not register FIR, then too, citizens make grievance that police are not following the law. In the present case police have registered the FIR and have taken necessary steps as per law, then too, citizen has raised a grievance that police have arbitrarily exercised their powers of registering an FIR. This approach cannot be countenanced. Otherwise for every action or inaction, police will have to remain accountable even though they have acted within the four corners of law and face prosecution for the same. Writ petition is without any substance and the same is accordingly dismissed.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]