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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.4365 OF 2014
WITH
CRIMINAL APPLICATION NO.416 OF 2015**

Smt. Archana @ Laxmi Prakash Ghadge

..Petitioner.

V/s.

State of Maharashtra and Anr.

..Respondents.

Mr.B.R.Deshmukh for the petitioner.

Mr.F.R. Shaikh, APP for respondent-State.

Mr.D.S.Mhaiskpurkar for respondent No.3

Mr. V.V. Purwant for applicant in APPW/415/2015.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 3RD MARCH, 2016

P.C. :-

1. Heard Mr.Deshmukh, learned counsel for the petitioner, Mr.Mhaiskpurkar, learned counsel for respondent No.3, Mr.Purwant, learned counsel for the applicant and Mr.Shaikh, learned APP.

2. The petition is filed for transfer of investigation of F.I.R. bearing C.R. No.59/2014 registered with Umadi police station, Taluka Jath, District Sangli to CBI, CID or any other

appropriate agency.

3. The transfer of investigation was sought by the petitioner on the ground that the investigation is not being carried out properly. The petitioner alleged that she was not given copy of the F.I.R. immediately and also F.I.R. is not registered as per her version.

4. After hearing learned counsel for the petitioner and learned APP on 23rd December, 2014 for sometime, we directed respondent No.2 to file his affidavit with further direction to refrain him from carrying out further investigation in the subject F.I.R. until the disposal of this petition. The deputy S.P., Jath Division was also directed to carry out further investigation in the said F.I.R.

5. When the matter was placed before us on 12th January, 2015 it was brought to our notice that respondent No.2 in defiance of our order dated 23rd December, 2014 has filed charge-sheet in the court of learned Judicial Magistrate First Class, Jath on 2nd January, 2015. Accordingly, we issued notice to respondent No.2 to show cause as to why action for contempt of the Court should not be taken against him. The

statement of learned APP to the effect that even though charge-sheet is filed, necessary application would be preferred under section 173(8) for further investigation would be carried out by the Deputy S.P. of Jath Division was accepted.

6. Mr.Nagnath Prabhakar Wakude, the Dy. SP/SDPO, Jath, District Sangli has filed an affidavit dated 1st February, 2016. The affidavit reveals that Deputy S.P. has carried out further investigation in the subject F.I.R. He recorded supplementary statements of 29 witnesses, including the witnesses present on the spot. The affidavit also reveals that in further investigation no involvement of any other person except the accused already named in the subject F.I.R. was found. Learned APP, on telephonic information, makes a statement that appropriate report would be filed before the concerned Court within a period of two weeks from today. Statement is accepted.

7. In the light of the above position, we are not inclined to entertain the petition, especially when the petitioner has a remedy under section 319 of the Criminal Procedure Code. The petition is accordingly dismissed.

8. In pursuance of the show cause notice issued as to why action under Contempt of Courts Act should not be taken against respondent No.2 has filed two affidavits in reply dated 6th February, 2015 and 23rd February, 2016. In the affidavit, respondent No.2 has explained the circumstances under which charge-sheet came to be filed in defiance of order dated 23rd December, 2014. Respondent No.2 stated that subject F.I.R. was registered on 5th December, 2014 and in order to see that the arrested accused will not get the benefit of not filing the charge-sheet within the stipulated period under section 167 of Criminal Procedure Code. Therefore, he filed charge-sheet on 2nd January, 2015. Respondent No.2 has also tendered apology. In the facts and circumstances of this case, we accept the unconditional apology tendered by respondent No.2 and drop the notice for contempt.

9. In view of the dismissal of the petition, the Criminal Application No.416 of 2015 will not survive and the same is also dismissed.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)