

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1051 OF 2016

Milind S/o Anant Mobharkar
Age : 55 years, Occ : Social Work,
R/o 474, Behind Anand Vihar Apartment,
Gaikwad Mala, Savedi Road, Ahmednagar,
Tq. & Dist. Ahmednagar.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. The Director General of Police,
Maharashtra State, Mumbai - 39.
3. The Superintendent of Police,
Ahmednagar, Tq. & Dist. Ahmednagar.
4. The Police Inspector/Investigating Officer,
Kotwali Police Station,
Ahmednagar.

..RESPONDENTS

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Advocate for petitioner : Mr.N.B. Narwade
PP for Respondent/State : Mr. A.B. Girase

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**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.**

RESERVED ON : 23rd February, 2017

PRONOUNCED ON : 28th February, 2017

JUDGMENT : (PER S.S. SHINDE, J)

Rule. Rule made returnable forthwith and

heard finally with the consent of the learned counsel appearing for the parties.

2. This Criminal Writ Petition is filed with the following prayer :-

B. By issuing appropriate writ, order, or direction in the like nature, the investigation in Crime No.I-162/2015 (R.T.C. No.678/2015) registered with Kotwali Police Station, Ahmednagar dated 23.06.2015 for the offence punishable under sections 326, 325, 143, 147, 148, 149, 506, 120(B) read with 34 of the Indian Penal Code and under Sections 37(1)(3)/135 of the Bombay Police Act may kindly be transferred to the Crime Bureau of Investigation or Crime Investigation Department with further direction to carry out the further investigation and Shivaji Bhanudas Kardile be made an accused in the Crime No.I-162/2015 registered with Kotwali Police Station.

3. Pursuant to the notices issued to

the respondents, the respondents have filed affidavit in reply. On 5th October, 2016 the Public Prosecutor, on instructions, made a statement before this Court that, the Superintendent of Police, Ahmednagar will call the entire investigation papers and then will try to address the grievance of the petitioner. It further appears that, on 13th October, 2016, it is informed to this Court that, the Superintendent of Police, Ahmednagar has appointed Additional Superintendent of Police for further investigation. This Court on 6th December, 2016 passed detailed order and sought response of the respondents why the investigation of Crime No.I-162/2015 registered with Kotwali Police Station should not be entrusted with C.I.D./Special Investigation Team at the State Level or C.B.I., as the case may be. Mr. Dr. Saurabh Neelkanth Tripathi, working as Superintendent

of Police, Ahmednagar has filed affidavit in reply. It is stated in the said affidavit in reply that, the Sub-Divisional Police Officer, Ahmednagar was appointed for enquiry about the grievance raised by the petitioner in respect of not conducting the proper investigation in Crime No.I-162/2015. The Sub-Divisional Police Officer on 8th October, 2016 submitted report to him. Considering the said report, he came to the conclusion that, there is negligence on the part of the Investigating Officer, and therefore, direction was given to the Sub-Divisional Police Officer to conduct preliminary enquiry about the conduct of the Investigating Officer. The Sub-Divisional Police Officer conducted preliminary enquiry and submitted report that, the Investigating Officer was negligent while conducting the investigation in the aforementioned crime. The Sub-Divisional Police Officer has submitted the

report to that effect on 7th January, 2017. The said report was forwarded to the Special Inspector General of Police, Nashik thereby requesting to conduct departmental inquiry of the Investigating Officer, who was negligent in performing his duties.

4. The Principal Secretary, Home Department has also filed the affidavit in reply and stated that, the State has no objection for further investigation through independent investigation agency like the State CID in the aforementioned crime. The respondent authorities themselves found that, there was no proper investigation and grievance raised by the petitioner is genuine and the State has no objection to transfer the further investigation of Crime No.I-162/2015 to the State C.I.D.

5. Keeping in view the seriousness of

the allegations made in the F.I.R. against the sitting M.L.A. by the informant i.e. the petitioner and also it is revealed in the enquiry conducted by the Sub-Divisional Officer, Ahmednagar that the Investigating Officer has not caused the proper investigation, we are of the opinion that, the investigation needs to be done thoroughly, properly and impartially. Therefore, in the peculiar facts and circumstances of the case, we direct the respondent no.1 to entrust the investigation to the State C.I.D. forthwith. The overall supervision of the further investigation should be monitored by the Special Inspector General of Police, Pune. The said authority shall constantly monitor the investigation and seek report after fortnight. Depending upon the outcome of the investigation, the new investigation Team i.e. State C.I.D. to take appropriate decision about filing

Supplementary charge-sheet, if any. Till then, the further proceedings in R.T.C. No. 678/2015 pending on the file of the Judicial Magistrate, First Class, Ahmednagar shall remain stayed.

6. The State C.I.D. shall conduct and complete further investigation, as expeditiously as possible.

7. With the above observations, the Criminal Writ Petition stands disposed of. After completion of further investigation and outcome of such investigation shall be communicated to the Public Prosecutor of High Court of Bombay, bench at Aurangabad.

8. List the matter for compliance of today's order on 14th June, 2017.

(K.K. SONAWANE, J.)

(S.S. SHINDE, J.)

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