

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO. 1934 OF 2017**

Meharajuddin Nasir Shaikh. ..Petitioner.

**Versus**

State of Maharashtra. ..Respondent.

Ms. Anjali Patil for the Petitioner.

Mrs. A. S. Pai, APP for the State.

Coram : Ranjit More &  
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 16, 2017.**

**P. C. :**

1. Heard the learned Counsel for the Petitioner and the learned APP for the State. Petition is filed seeking direction to transfer the investigation of CR No. 381 of 2015 registered with Nirmal Nagar Police Station to the CBI.

2. Mrs. Pai, the learned APP at the outset submitted that after completion of investigation into said FIR, charge-sheet was filed before the concerned magistrate with liberty to carry out further investigation under section 173(8) of the Code of Criminal Procedure, 1973. She submitted that further investigation is also completed and thereafter supplementary charge-sheet is filed.

3. Ms. Patil, the learned Counsel for the Petitioner submitted that one Sagar has not been made accused, though his

name appears in the FIR and also in the statement of one of the witness, namely, in the statement of Ashraf Baig. The learned APP to refute this submission, submitted that other eye witnesses of the incident whose statements are recorded do not speak about the presence of Sagar, therefore, Sagar is not named as accused.

4. We have gone through the charge-sheet. It is true that name of Sagar is disclosed in the FIR. However, statements of eye-witnesses, namely, Rubina Shaikh, Rehana Shaikh, Nasrin Shaikh and Farzana Baig were recorded on 23<sup>rd</sup> December 2017. These witnesses have not attributed any role to Sagar. It is true that Ashraf Baig has attributed some role to Sagar. However, his statement is recorded on 2<sup>nd</sup> January 2016, i.e., 15 days after the incident and the informant is silent about his presence at the scene of offence.

5. In view of above circumstances, we do not find any fault with the investigation especially when the Petitioner has alternative and efficacious remedy under section 319 of the Code of Criminal Procedure, 1973. Writ petition is accordingly dismissed.

**[Dr. Shalini Phansalkar-Joshi, J.]**

**[RANJIT MORE, J.]**