

Rane

* 1/5 * PIL (ST)-19/2017 (SR. 961)
Thursday, 9.11.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION (ST) NO. 19 OF 2017

Pradeep Govind Bhalekar

....Petitioner

V/s.

The State of Maharashtra
and Ors.

....Respondents

ALONGWITH

CRI. APPLICATION NO. 8 OF 2017

IN

PUBLIC INTEREST LITIGATION (ST) NO. 19 OF 2017

Hiralal Rama Jadhav

....Petitioner

V/s.

The State of Maharashtra
and Ors.

....Respondents

ALONGWITH

CRI. APPLICATION NO. 10 OF 2017

IN

PUBLIC INTEREST LITIGATION (ST) NO. 19 OF 2017

Ramesh Nagnath Kadam

....Petitioner

V/s.

The State of Maharashtra
and Ors.

....Respondents

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Mr. Nitin S. Dhumal, Advocate for the petitioner.

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Ms. Shilpa Gajare, Advocate for the applicant in APPI-7-2017 and i/by. Mr. N.A. Sonawane, Advocate for the applicant in APPI-8-2017.

Ms. Rekha Satpute, i/by. Mr. Vinod G. Satpute, Advocate for the applicant in APPI-9-2017.

Mr. Rajiv Patil, a/w. Mr. R.M. Pethe, Advocate for respondents no.1, 4 and 5.

Mrs. M.M. Deshmukh, AGP for respondent, State.

Smt. Prabha Raul, P.I. Of Crime Branch present.

CORAM :- **B.R.GAVAI &**
 SANDEEP K. SHINDE, JJ.
DATE :- **9TH NOVEMBER, 2017.**

P.C. :-

1. The present petition has been filed by the petitioner seeking various reliefs including for transferring the investigation from Nagpada Police Station to Mumbai State CID. The petitioner has also prayed for a direction to add Section 377 and 354 of the

Indian Penal Code in the FIR.

2. Perusal of the various orders passed by this Court would reveal that, the investigation came to be transferred from the concerned Police Station to Crime Bench. The further investigation was carried out by the Crime Branch and the chargesheet is already filed. It is the contention of the petitioner that, though a Medical Officer was also guilty, he has not been impleaded as accused. It is also the contention that, certain charges which are required to be framed are not framed.

3. The Apex Court in the case of **M.C. Abraham V/s. State of Maharashtra, reported in (2003) 2 Supreme Court Cases page 649**, has held that this Court while exercising its jurisdiction under Section 226 of the Constitution of India, cannot direct the investigation to be done in a particular manner. It has been held that, it is the sole prerogative of the Investigating Agency as to how to conduct investigation. In that view of the matter, we find that the direction as

such sought to include particular offences cannot be issued by this Court.

4. In any case, if during further investigation, the Investigating Agency comes with further material, the provisions of Sub-section 8 of Section 173 of the Criminal Procedure Code can be invoked by the Investigating Agency.

5. Similarly, if during the trial the Learned trial Judge finds that a particular person who ought to have made accused has not been made an accused, the provision of Section 319 Criminal Procedure Code can be taken resort to for taking such steps as are necessary. In that view of the matter, we find that the petition has served its purpose. The petition is dismissed.

6. All inter-locutory applications stand disposed off.

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