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WP-2798-2014 (SR.21)

Tuesday, 29.8.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2798 OF 2014

Rajendra Prabhudayal Choudhary ..Petitioner

V/s.

1. The State of Maharashtra & Ors. ..Respondents

* * * * *

Mr. G.T. Kanchanpurkar, Advocate for the petitioner.

Mr. J.P. Yagnik, APP for the respondent, State.

Mr. Mahesh P. Pagdhare, Investigation Officer, Palghar
Police Station present.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

29TH AUGUST, 2017.

P.C. :-

1. By the above Petition, a direction is sought for
transfer of investigation to the nearest police station in

connection with FIR No.I-125/2013 registered with Palghar Police Station. A further prayer is made that appropriate action be taken against the respondents no.2 and 3 for violation of the basic principles of law.

2. Insofar as, the first prayer is concerned, the Learned APP, Mr. Yagnik, on instructions of the Investigation Officer, Palghar Police Station, Mr. Mahesh P. Pagdhare, makes a statement that chargesheet has already been filed. The offences alleged against the accused are under Sections 506, 420 read with Section 34 of the Indian Penal Code. Hence, insofar as, the first prayer is concerned, in view of the filing of the said chargesheet, the said prayer cannot be acceded to.

3. Insofar as, the second prayer, which we have adverted to hereinabove, the same is founded on the ground that the provisions of Section 157 of the Criminal Procedure Code in the matter of reporting the registration

of the FIR to the nearest Magistrate has not been complied with. In the instant case, it is required to be noted that the FIR was registered on 22nd December, 2013 and the report was submitted to the Learned Magistrate on 7th April, 2014. It seems that, on account of the grievance made by the Petitioner, a notice came to be issued by the Learned Magistrate to the police for the delay in reporting the factum of registration of the FIR. To the said notice, as stated in the Affidavit-in-reply, a report bearing O.W. No. 3180/2014 dated 7th April, 2014 with the explanation that the FIR was misplaced and on immediately getting the said FIR, the same was remitted to the Registry of the Judicial Magistrate First Class, Palghar has been stated in para-8 of the said reply. It is further stated that the said explanation given by the police was accepted by the Learned Magistrate. In the light of the acceptation of the explanation given by the police, the relief sought vide the second prayer also cannot be granted to the Petitioner. In that view of the

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matter, no relief can be granted to the Petitioner in the
above Writ Petition. The Writ Petition to accordingly
stand dismissed.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)