

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.2808 OF 2017
WITH
CRIMINAL APPLICATION NO.422 OF 2017**

Mrs. Laxmi Mukul Gupta @ LipiPetitioner
V/s.
The State of MaharashtraRespondents

Mr. Anand Mishra i/by Mr. A.M.Saraogi, Advocates for Petitioner.
Mr. K.V.Saste, APP for the Respondent-State.
Mr. Amarendra Mishra for Applicant in APL No.422 of 2017.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 27TH SEPTEMBER, 2017.

RC. :-

By the above Petition, direction is sought that the Superior Officer of the Respondents or any such independent officer of the Respondents to forthwith take cognizance of the complaint made by the Petitioner vide letter dated 27.6.2017. The Petitioner is the First Informant in the FIR, lodged with the Borivali Police Station which has given rise to the proceedings being 964/P/2003 pending before the learned Metropolitan Magistrate, 26th Court, Borivali. In so far as the said proceedings are concerned, it is

required to be noted that in Criminal Writ Petition No.1513 of 2015, the hearing of the said case is expedited by a learned Single Judge of this Court (M.L.Tahaliyani, J.) as His Lordship then was and the learned Magistrate is directed to complete the trial within a period of six months from the date of receipt of the authenticated copy of the said order. We are informed at the bar that the trial in the said case has commenced and the second witness is sought to be examined by the prosecution. We are informed that since the First Informant refused to depose, the trial Court has closed her evidence until further orders and the evidence of the second witness is commenced. However, pertinently the direction as contained in the said order dated 23.7.2015 passed by Tahilyani, J. was not brought to our notice till the learned counsel appearing for the Intervenor/Accused came before this Court and drew our attention to the said order. A reading of the said order discloses that the Petitioner was very much present before Tahilyani, J. as her appearance has been recorded in the said order. In so far as the complaint dated 27.6.2017 is concerned, the grievance of the Petitioner is as regards one Shailesh Gupta and one Sharad Gupta who are the brothers-in-law of the Petitioner who according to the Petitioner are not presenting themselves before the Court and an

impression is sought to be given that they are absconding. In so far as Shailesh Gupta is concerned, he is a Software Engineer with Capgemine and, therefore, he has to travel abroad. He has been granted permission by the trial Court to travel upto March, 2018 for official purposes. In so far as Sharad Gupta is concerned, he is very much in Mumbai and he has filed an Intervention Application in the above Petition. Hence, the grievance of the Petitioner in so far as the complaint dated 27.6.2017 is concerned, appears to be misfounded. In so far as the husband of the Petitioner is concerned, we are informed that he is missing from day one. We have, therefore, enquired from the learned Additional Public Prosecutor as regards the steps taken to find his whereabouts. The learned Additional Public Prosecutor has drawn our attention to the look out notice issued in the year 2007. According to the learned Additional Public Prosecutor, in so far as the documents which have been produced by the co-accused which inter-alia are in respect of the factum of the husband of the Petitioner not being alive, the Senior Inspector of Police, Borivali Police Station has addressed the letter dated 18.9.2017 to the Consulate General of Philipines eliciting information from him. In so far as the allegation of forgery and fabrication of the death certificate is concerned, the co-accused

having been charged with the offences punishable under Sections 465, 468, 474 of the Indian Penal Code, 1860. The same is, therefore, a subject matter of the trial before the Magistrate. In our view, there is now no warrant to keep the above Petition pending especially having regard to the fact that trial has been expedited by an order passed by the learned Single Judge of this Court (Tahilyani, J.) as long back as on 23.7.2015. The Writ Petition is accordingly dismissed.

2 In view of the dismissal of the Petition, the Criminal Application for intervention bearing No.422 of 2017 does not survive and to accordingly stand disposed of as such.

3 All interim orders are vacated.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)