

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3221OF 2015

Kumudini Vishnu Patil

.. Petitioner

v/s.

The State of Maharashtra And Anr.

..Respondents

Mr.Subhash Jha i/b. C.A.Malgaonkar for the Petitioner.

Mrs.M.M.Deshmukh, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : MARCH 29, 2017.**

P.C. :

1. Heard Mr.Jha, the learned Counsel for the Petitioner and the learned APP for the State. This petition is filed by the mother of the accused for further investigation under the provisions of Section 173(8)A of the Cr.P.C.
2. Mr. Jha, the learned Counsel for the Petitioner contended that the incident took place at 9.30 a.m. on 19th January, 2015 and that the Petitioner's son Kedqr had gone to Goa on 17th January, 2015 and he returned on 28th January, 2015. In support of his contention, the

learned Counsel has relied upon the decisions of the Apex Court in (1) State Inspector of Police, Vishakapatnam v. Surya Sankaram Karri (2006)7 Supreme Court Cases 172, (2) the Order dated 19th April 2011 passed by the Division Bench of this Court in Writ Petition No. 1148 of 2011 and (3) the Order passed by the Judge of the Madhya Pradesh High Court in the case of Jugal Kishore vs. State of M.P.

3. The learned APP vehemently opposed the petition. She stated that the Petitioner's son Kedar is named by the independent eye witness. The investigation into the concerned C.R. is completed and the chargesheet is also filed, hence in such circumstances no interference is required.

4. Having gone through the compilation of the Petition and having considered the rival submissions along with the decision of the Apex Court, and the High Court, we are not inclined to entertain this petition at the instance of the mother of the accused. In our view, the Petitioner has no locus to file the present Petition.

5. That apart, the petition is filed requesting prayer for further investigation on the ground that the Petitioner's son Kedar was not present at the scene of incident on 19th January, 2015. Thus, the

Petitioner is seeking direction for further investigation in respect of the defence of alibi of her son Kedar. The facts relating to this defence could have been brought to the notice of the Investigating Officer in the course of the investigation. Mr. Jha, the learned Counsel, in this regard relied upon the representations to point out to us the two representations. The said representation is addressed to the Chief Minister and the other authority is not to the Investigating Officer. Be that as it may, the defence of alibi can be proved in the trial. In our opinion, further investigation cannot be ordered on the grounds stated in the petition. The decisions relied upon by Mr. Jha are not applicable to the facts of the present case. The petition is devoid of merits. Hence, the same is dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)