

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

WRIT PETITION NO. 3827 OF 2016

Liyakat Iqbal Shaikh	...	Petitioner
V/s.		
The State of Maharashtra & Anr.	...	Respondents

Mr.Subhash Jha i/b. M/s.Law Global Advocates for the Petitioner.
Mrs.G.P. Mulekar, APP for the State.
Mr.Vikrant Shirsat, API, Housing-1, EOW, Mumbai.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 17th JANUARY, 2017.

P.C. :

1] Heard Mr.Jha, learned counsel for the Petitioner and
Mrs.Mulekar, learned APP for the State.

2] This petition is filed for following reliefs;

- “a) that this Hon'ble Court may be pleased to call for the records and proceedings concerning MECR No.9/12 from Economic Offences Wing, Unit-II, CB, CID, Mumbai and after examining the legality, validity and/or propriety of not effecting arrest/detention of the absconding accused Abdul Munaf Shaikh/K.D. Patil which resulted in trial being delayed inordinately as against them, the Respondent No.1 be directed to forthwith ensure arrest/detention of the absconding accused Abdul

Munaf Shaikh/K.D. Patil in and the investigating agency be directed to take recourse to such measures as may be necessary, including that of proceeding against them u/s.82/83 of Cr.P.C.;

- b) that this Hon'ble Court may be pleased to direct the Respondent No.1 to take action on the administrative side against the erring police personnel responsible for investigation concerning MECR No.9 of 2012 of Economic Offences Wing, Unit-II, CB, CID, Mumbai for having deliberately or otherwise not effecting arrest/detention of the absconding accused Abdul Munaf Shaikh/K.D. Patil which resulted in inordinate delay in the trial of the case.”

3] Mr.Jha, learned counsel for the petitioner submitted that though the MECR is registered on the basis of the order passed by learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai under Section 156 (3) of Code of Criminal Procedure, the investigation is still in progress and police have not taken any steps for arresting the accused. Mr.Jha, learned counsel for the petitioner, therefore, submitted that action should be taken against the concerned police personnel.

4] Mrs.Mulekar, learned APP submits that the Petitioner is neither the complainant nor witness nor victim and therefore, the Petitioner should not be entertained at this instance.

5] Mrs.Mulekar, learned APP having taken instructions from the officer Mr.Vikrant Shirsat, API, Housing-1, EOW, Mumbai, who is present in the Court, makes a statement that there are four accused in the present MECR, out of these four accused two accused are arrested and charge-sheet is also filed before the Magistrate. So far as the third accused Mr.K.D. Patil is concerned, he is a MHADA official and there is material against him. However, sanction is required to be taken from MHADA and the Investigating Officer is in the process of obtaining the sanction. She submits that this process will be completed within the period of three months and thereafter, charge-sheet would be filed against this accused also. The statement is accepted.

6] So far as fourth accused is concerned, Mrs.Mulekar, learned APP submits that as on today there is no sufficient evidence and the subject MECR is further investigated under Section 173(8) of CrPC in respect of this accused. She on instructions states that investigation against this accused would be completed within a period of one month from today and appropriate report would be filed. The statement is accepted.

7] In the light of the statements made by the learned APP, we are not inclined to entertain this petition in exercise of jurisdiction under Article 226 and 227 of the Constitution of India and therefore, this petition is accordingly dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]