

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 49 OF 2018
IN
CRIMINAL WRIT PETITION NO. 1263 OF 2017

Dr. Rahul Tulshiram Birari,
Age 35 years, Occup. Doctor/Radiologist,
R/o. Plot No.1, S.No.4/3A +38/1,
Soyegaon, Malegaon, Dist. Nashik
At Present 6, Sai Baba Shradda Nagar,
New Rander Road Surat.

...Petitioner

Versus

Mr. Yashashvi Yadav,
Age- Major, Occupation Commissioner of
Police, R/o. Commissioner of Police
Residence, Near Commissioner Office,
Aurangabad.

...Respondent

Mr. B. S. Shinde, Advocate for petitioner.

CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI. JJ.
DATE : 22-01-2018.

PER COURT :

1. The petitioner is before this Court submitting that, the order passed by this Court in Writ Petition No.1263 of 2017 dated 05th December, 2017 is not complied with and the respondent authorities

committed an act of contempt of this Court by disobeying the order of this Court.

2. The learned counsel for the petitioner invited our attention to the copy of the order passed by this Court on 05th December, 2017 in Writ Petition No.1263 of 2017. It seems that, the petitioner being aggrieved the place of the investigation approached this Court. The basic prayer of the petitioner in Criminal Writ Petition 1263 of 2017 was prayer "C" namely seeking transfer of the investigation from the local police authority to any other agency such as Central Bureau Investigation, Economic Offence Wing or the Enforcement Directorate. It may not be necessary to state that the contents of the report lodged at the instance of the petitioner. Suffice to say that, it was the allegation in the report that the informant-complainant i.e. the petitioner who himself is a medical professional was mislead by the accused persons for the oblique motive and thereby the informant was subjected to financial loss. It was also alleged that, there was an act of tampering in the computer data and also an allegation that an ill act was committed against wife of the informant. Accordingly the police station officer registered the crime against accused persons for the offence under various sections of the Indian Penal Code and the

provisions of the Information and Technology Act as well.

3. The learned Addl. Public Prosecutor submitted a report for our perusal. The report is submitted through the Deputy Commissioner of Police Headquarters. From the perusal of the report it reveals that, the Commissioner of Police undertook the exercise of causing the enquiry in the matter in view of the order by this Court dated 05th December, 2017. This Court in the order of 05th December, 2017 found that, the investigation was done by the investigating officer in perfunctory manner.

4. In the detailed report it is submitted that the investigation was carried out by three officers. It is also stated that now the investigation is to be carried out by the Economic Offence Wing. In this detailed report it is also stated that, the accused persons had approached the Court below for seeking the enlargement on their bail. It is also stated that, the applications were allowed and though the accused persons were directed to co-operate the investigating agency, the accused persons failed to co-operate the investigating agency. It is stated that, the one of the accused was then subsequently had approached investigating agency and the specimen handwriting of the said accused is obtained. The same is forwarded to the handwriting

experts for receiving the report. The report then states that, out of three investigating officers one investigating officer Mr. S. R. Kauthale failed in his duties to conduct the investigation at the reasonable space and the same resulted in the delay in the investigation.

5. It is also stated that, an explanation was called for the officer Mr. Kauthale for failure of his duty namely not obtaining the specimen handwriting of the accused persons. It is further stated in the report that, explanation submitted by the erring officer was found not satisfactory and accordingly a notice is issued to erring officer imposing departmental punishment on the erring officer of stopping of his wages rise for two years. It is also stated that, on receiving the reply on the show cause notice, the further action of imposing the punishment in view of the rules would be taken against the erring officer.

6. Considering the report submitted by the Deputy Commissioner of Police Headquarters, we are of the opinion that authority undertook the exercise of complying the order by this Court in later and spirit. It is also revealed from the material that, the report was submitted to the office of the Public Prosecutor on 20-12-2017 i.e. prior to listing of the petition before this Court. The petition was

directed to be listed on 22-12-2017 and the report of the Commissioner is of 20-12-2017. The learned Addl. Public Prosecutor submitted that, as the petition was not listed before the Court nor it appeared in the cause list, the report though received by the office, the learned Addl. Public Prosecutor had no occasion to present report for perusal of the Court.

7. We find that, the authorities, particularly the respondent No.2, the Commissioner of Police, complied the order of this Court in letter and spirit that too within the prescribed time period under the directions of this Court. The contempt petition thus clearly devoid of merit. The contempt petition is disposed of accordingly.

[SMT. VIBHA KANKANWADI]
JUDGE

[PRASANNA B. VARALE]
JUDGE

vjg/-.