

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 32 OF 2017**

Yasmin Kausar Meman

...Petitioner

Versus

The State of Maharashtra

...Respondent

**WITH
CRIMINAL APPLICATION NO. 49 OF 2018
IN
CRIMINAL WRIT PETITION NO. 32 OF 2017**

Yasmin Kausar Meman

...Applicant/Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. Adenwala Mohammed Shakeel for the Petitioner/Applicant

Mrs. A. S. Pai, A.P.P for the Respondent-State

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
MONDAY, 6th AUGUST 2018***

P.C. :

1 The above Writ Petition has been filed for transfer of the investigation in C.R. No. 388 of 2016 registered for the offence punishable under Section 379 of the Indian Penal Code. The said FIR has been registered with the Malwani Police Station, Mumbai, and the transfer is sought to the GB CB CID or the CBI.

2 Insofar as the above Criminal Application is concerned, the same has been filed for a direction against the Respondent for further investigation under Section 173(8) of the Code of Criminal Procedure and to transfer the investigation from Malwani Police Station to GB CB CID or CBI. The said Criminal Application has been filed in view of the supervening event of a 'A' Summary report filed by the Police on 11th December 2017 in the concerned Court. In the light of the said supervening event of the filing of the 'A' Summary report by the investigating agency, it is for the Applicant/Petitioner to seek the appropriate recourse against the filing of the said 'A' Summary report. Insofar as the relief of transfer of investigation, as sought by the Applicant/Petitioner is concerned, the right of the Applicant/Petitioner is kept reserved for being invoked at the appropriate stage, which would be contingent upon the fate of the 'A' Summary report before the learned Magistrate.

3 The learned counsel for the Petitioner sought to place reliance on the judgment of the Apex Court in the matter of ***Pooja Pal vs. Union of India & Ors.***¹. The said judgment, no doubt, holds that it is the power of the constitutional courts to direct further investigation or reinvestigation as

1 2016 Cri. L. J. 2038

the same is a dynamic component of its jurisdiction to exercise judicial review, which is a basic feature of the Constitution, however, a note of caution has been sounded namely that though the said power undoubtedly exists, the same has to be exercised with due care and caution and informed with self imposed restraints. In the facts of the present case, where a 'A' Summary report has been filed by the investigating agency, we are of the view that it is not necessary to consider the relief sought by the Petitioner at this stage, and as noted hereinabove, the right of the Petitioner is kept reserved and would be contingent upon the fate of the 'A' Summary report before the learned Magistrate.

4 With the observations as aforesaid, Writ Petition is disposed of.

5 In view of the above, the Criminal Application also to stand disposed of.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.