

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 262 OF 2018**

Chetan V. Nisar

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

**Mrs. Sonal Parab a/w Mr. Siddhesh Samel and Mr. K. V. Verma i/b Rajeev
Sawant & Associates for the Petitioner
Mr. R. M. Pethe APP for the Respondent State**

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 10th APRIL, 2018

P.C.

1 The above Writ Petition has been filed seeking a direction that the investigation into the allegations of the Petitioner's complaint dated 26-6-2017 against the accused for the offences punishable under Section 341, 193, 447, 465, 467, 468, 471, 120(B) r/w 34 of IPC, be transferred to any other police station. The relief though worded in the manner indicated hereinabove, in fact seeks an inquiry into the allegations made in the complaint dated 26-6-2017 of the Petitioner. The Learned Counsel Mrs. Parab fairly accepts the said position.

2 The above Petition was preceded by an earlier Petition filed by the Petitioner being Writ Petition No.4651 of 2017 wherein an order came to be passed by a Division Bench of this Court on 8-12-2017 directing the Senior Inspector of Police Jogeshwari Police Station to hold a preliminary inquiry into

the allegations made in the said complaint dated 26-6-2017. The Division Bench has observed that the said directions were issued in the light of the judgment of the Apex Court in **Lalita Kumari Vs. State of UP**¹ The Learned Counsel for the Petitioner Mrs. Parab would draw our attention to the fact that vide letter dated 18-12-2017 of the Advocates for the Petitioner the aforesaid order dated 8-12-2017 was brought to the notice of the Senior Inspector of Police Jogeshwari Police Station. The Learned Counsel further draws our attention to the communication dated 19-12-2017 received by the Petitioner from the Inspector of Police (Administration) Jogeshwari Police Station by which communication the Petitioner has been informed that it would not be practically possible to conduct the criminal investigation into the allegations made in the complaint dated 26-6-2017. It was the submission of the Learned Counsel Mrs. Parab that though the order passed by this Court on 8-12-2017 was communicated by letter dated 18-12-2017 the Jogeshwari Police Station immediately on the next day i.e. 19-12-2017 has communicated to the Petitioner that no criminal investigation could be carried out in respect of the complaint of the Petitioner. It was therefore the submission of the Learned Counsel that no preliminary inquiry as mandated by **Lalita Kumari Vs. State of U. P.**, was in fact conducted by the Jogeshwari Police Station.

3 In the light of the said submission of the Learned Counsel we had directed the Learned APP Mr. Pethe to seek instructions and produce the file

¹ 2014 2 SCC page 1

containing the relevant papers on record. Today the Learned APP has produced the file containing the said communication dated 19-12-2017 and the relevant papers preceding thereto. The Learned APP further submitted that all the relevant documents have been considered by the Jogeshwari Police Station and it is on such consideration that the Jogeshwari Police Station has reached a conclusion that there is no criminality involved.

4 In the said context, it is also required to be noted that in the letter dated 19-12-2017 in the reference column various letters addressed by the Petitioner right from 10-11-2016 to the last of such letters dated 3-10-2017 have been referred to. Hence it seems that the inquiry which was conducted by the Jogeshwari Police Station was in the context of the letters which have been addressed by the Petitioner from 10-11-2016 till 3-10-2017 and it is not as if after the order was communicated to the Jogeshwari Police Station that the inquiry came to be conducted and concluded within one day.

5 In our view it is not possible for us to accept the contention urged by the Learned Counsel Mrs. Parab calling in question the manner in which the inquiry was conducted. In our view, therefore, the directions sought vide the above Writ Petition cannot be acceded to. However, in terms of the judgment of the Apex Court in **Sakiri Vasu Vs. State of U.P**¹, it would be open for the Petitioner to invoke the jurisdiction of the concerned Court under Section

¹ AIR 2008 Supreme Court 907

156(3) by filing an appropriate application. If any such application is filed, needless to state that the same would be tried on its own merits and in accordance with law. We express no opinion in that regard.

6 With the observations as aforesaid, the Writ Petition is dismissed.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]