

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.438 OF 2018

Mr. Mohan Dattu Pavshe Petitioner

Vs.

The State of Maharashtra & Ors. Respondents

Mr. J.M. Puranik for the Petitioner.

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

Coram : R.M. Savant AND
Sarang V. Kotwal, JJ

Date : 7th March, 2018

P.C.

1 The relief sought in the above petition is for a direction that fresh investigation be carried out through the Central Bureau of Investigation (CBI). In so far as the F.I.R., which has been registered at the behest of the petitioner, the same has a chequered history. The said F.I.R. was registered sometime in the year 2004. The charge-sheet came to be filed on 22nd March, 2004 and supplementary charge-sheet has also been filed on 11th July 2005 by the Crime Branch, Kalyan, which had by then taken over the investigation from the Kolsewadi Police Station.

2 The petitioner had earlier filed two writ petitions, which came to be disposed of by two Division Benches of this Court. The order disposing of the last of such Writ Petitions being No.652 of 2005 was challenged before the Apex Court by the petitioner. The said S.L.P. filed by the petitioner came to be dismissed. Suffice, it would be state that the said writ petition was filed by the petitioner highlighting the manner in which the investigation was carried out by the investigating agency. However, a Division Bench of this Court by observing that it did not find any lapse on the part of the investigating agency in carrying out the investigation had dismissed the said writ petition. It seems that the petitioner thereafter had filed Criminal Application No. 207 of 2007 in Writ Petition No. 619 of 2004 in this Court for a direction that further investigation be carried out. The said application was filed seeking further investigation under Section 173(8) of the Cr.P.C.. The said application was withdrawn by the petitioner so as to enable him

to approach the concerned court for an order in terms of Section 173(8) of the Cr.P.C.. The petitioner accordingly filed an application invoking Section 173(8) of the Cr.P.C. in the trial Court. The said application came to be rejected by the trial Court by an order dated 27th January 2017 passed on application Exhibit 26 in Sessions Case No.100 of 2004. This resulted in the petitioner filing Writ Petition No. 1136 of 2017 before a learned Single Judge of this Court challenging the said order dated 27th January 2017. The said writ petition came to be disposed of by a learned Single Judge of this Court (Mrs. Revati Mohite Dere, J.) by an order dated 8th January 2018 observing that there was no illegality or infirmity in the said order dated 27th January 2017 and also on the ground that the application for further investigation could only be filed by the investigating agency. It is after all the above has transpired that the petitioner has chosen to file the instant petition for transfer of the investigation to the C.B.I.. The filing of the above petition as per the learned counsel for the petitioner is referable to the

observations made by a learned Single Judge in the last two lines of an order dated 8th January 2018.

3 We do not find anything in the said observations, which could be said to support the petitioner's case of filing of the instant petition. Be that as it may, having regard to the facts as afore-stated as also having regard to the fact that the charges have already been framed and considering the fact that six persons have already been arrested and one accused has been shown wanted, as also having regard to the observations made by the Division Bench of this Court in the order dated 28th April 2005, which was after filing of the charge-sheet, we cannot accede to the request of the petitioner for transferring the investigation to the C.B.I. for carrying out de-novo investigation. The writ petition is accordingly dismissed.

(Sarang V. Kotwal, J.)

(R.M. Savant, J.)