

Ramila Rajnikant Kilachand & Anr. ...Petitioners
Versus
The State of Maharashtra & Anr. ...Respondents

Mrs. P. P. Shinde, 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 its genesis in the order dated 3rd August 2015 passed by a Division Bench of this Court in Writ Petition No. 4380 of 2014. By the said order, the said Writ Petition came to be disposed of. Whilst disposing of the said Petition, the Division Bench recorded the statement of the learned A.P.P that an FIR being C.R. No. 172 of 2013 was registered against the alleged tenants for the offences punishable under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code and that a charge-sheet has also been filed. The order thereafter refers to a statement made by the Petitioners on 23rd March 2013, in which statement, the

allegation of the Petitioners to the effect that on the basis of bogus ration cards, additional FSI was obtained and thereafter the Government was defrauded to the tune of Rs. 500 crores, finds a place. Thereafter, the further statement of Mr. Yagnik that allegations made in the said complaint of the Petitioners and the FIR in question are one and the same and arise from the same transaction, is recorded. It was further recorded that the allegations of the Petitioners made in the statement are being looked into by the Economic Offences Wing and that further inquiry is on and appropriate decision will be taken shortly and which will be communicated to the Petitioners.

2 It seems that the Economic Offences Wing conducted an inquiry and filed a 'B'-Summary report in the concerned Court, against which, the Petitioners have admittedly filed a Protest Petition. The Petitioners had also some grievance against the concerned Police Officers, for which, they have approached the State Police Complaints Authority.

3 By the above Petition, the Petitioners are seeking action against the learned A.P.P Mr. Y. P. Yagnik, who had appeared in the said Writ

Petition No. 4380 of 2014 as according to the Petitioners, the information which they had obtained through the Rights to Information Act from the concerned Police Station reveals that no such instructions of an FIR being registered were given to Mr. Yagnik at the time of the hearing of the said Writ Petition No. 4380 of 2014. It is, therefore, the allegation of the Petitioners that the said statement was made by Mr. Yagnik without there being any instructions in that regard and which statement has caused prejudice to the Petitioners, inasmuch as, the said Writ Petition came to be disposed of in view of the said statement made by Mr. Yagnik. Pertinently, in the Petition, no such prayer seeking action against Mr. Yagnik finds a place.

4 It is required to be noted that against the order dated 3rd August 2015 passed in the said Writ Petition No. 4380 of 2014, the Petitioners had carried the matter by way of an SLP to the Apex Court being SLP (Cri.) No. 8111 of 2015. The said SLP came to be disposed of as withdrawn in view of the statement made by the learned counsel for the Petitioners that the Petitioners would withdraw the said SLP with liberty to approach appropriate forum for appropriate relief, once the Economic Offences Wing

takes a decision. The Apex Court accordingly granted liberty to approach the appropriate forum once the Economic Offences Wing takes a decision.

5 The said order of the Apex Court, therefore, has transcended the order passed by the Division Bench of this Court dated 3rd August 2015 and in view of the order passed by the Apex Court, the order passed by a Division Bench of this Court dated 3rd August 2015 has merged in the order passed by the Apex Court. That apart, the Petitioners, as indicated above, have approached the concerned Court against the `B' Summary report filed by the Economic Offences Wing by filing a Protest Petition. Hence, the order of the Apex Court which granted liberty to the Petitioners has also been acted upon by the Petitioners. We are also informed that the self-same pleadings as are appearing in the present Petition, were also there in the said SLP.

6 In our view, therefore, no relief can be granted to the Petitioners in the above Writ Petition. The same is accordingly dismissed.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.