

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.200 OF 2018

Santosh Savlaram Kale	...Petitioner
Vs.	
State of Maharashtra & Ors.	..Respondents

WITH

**CRIMINAL APPLICATION NO. 95 OF 2018
(Seeking Intervention)**

IN

CRIMINAL WRIT PETITION NO. 200 OF 2018

Jayantilal Laxmanbhai Rathod	...Applicant(Intervener)
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AND

IN BETWEEN MATTER

Santosh Savlaram Kale	...Petitioner
Vs.	
The State of Maharashtra & Ors.	...Respondents

WITH

**CRIMINAL APPLICATION NO. 175 OF 2018
IN**

CRIMINAL WRIT PETITION NO. 200 OF 2018

Santosh Savlaram Kale	...Applicant(Org.Petitioner)
Vs.	
State of Maharashtra & Ors.	...Respondents.

**Mr.Subhash Jha i/b. Mr.S.S.Musale for the Petitioner.
Mrs.PP. Shinde APP for the Respondent State.**

**CORAM : R. M. SAVANT, &
REVATI MOHITE DERE, JJ
DATE : 13th JUNE, 2018**

P.C.

1 Pursuant to the directions issued by the Apex Court in order dated 13th April 2018 passed in SLP (Cri) No.2907 of 2018 in the matter of Santosh Savlaram Kale Vs. The State of Maharashtra through the Commissioner of Police and others, whereby this Court has been requested to dispose off the above Petition as expeditiously as possible and preferably within a period of two months from the date of the said order, we have taken up the above Petition for final hearing.

2 The above Petition has been filed for the following substantive relief.

“(a) that this Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ, order and/or direction in the nature of mandamus, thereby directing the Respondents to take cognizance of the complaint dated 25.11.2017, being Exhibit-'G' Colly, annexed herewith by registering an FIR against the accused named in the complaint in the light of the decisions of the Apex Court in the matter of State of Haryana Vs. Bhajan Lal- (1992) Supp.(1) SCC 335 and that of the constitution bench in the matter of Lalita Kumari Vs. State of UP (2014) 2 SCC 1.”

3 In addition to the said relief, the Petitioner is also seeking a direction that the Respondent No.1 be directed to take action against the erring police personnel of the NRI Police Station, Navi Mumbai for not registering an FIR.

4 In the context of the reliefs sought in the above Petition, it is necessary to briefly refer to the factual matrix involved in the above Petition. The Petitioner herein had participated in a E-Tender for supply of shoes, sport shoes (for P.T. Classes), raincoats, note books, school bags and school uniforms to the Navi Mumbai Municipal Corporation which runs school for poor children. The said items were to be supplied for the Academic Years 2016-17 and 2017-18. Apart from the Petitioner, there were other intending tenderers whose names are mentioned in the complaint dated 25th November 2017, which is referred to in prayer clause (a) of the Petition. The gravamen of the allegations of the Petitioner is that the award of work under the said tender was on account of the alleged collusion between the officers of the Navi Mumbai Municipal Corporation and the entities whose tenders were accepted. It is the allegation of the Petitioner that the said entities or the intending tenderers had fulfilled the eligibility conditions by production of forged, fabricated and manipulated documents. It is on the said basis, the Petitioner has predicated his complaint dated 25th November 2017. The Petitioner therefore seeks a direction that the Respondent No.1 be directed to direct the

NRI Police Station, Navi Mumbai to register an FIR against the entities which are named in the complaint dated 25th November 2017. Though the Petitioner is seeking to make serious allegations in respect of the manner in which the tender process was conducted by the Navi Mumbai Municipal Corporation, significantly however the Petitioner has not taken recourse to any proceeding for challenging the same. At least no such statement was made before us during the course of the hearing of the above Writ Petition.

It is not possible for this Court in its Writ Jurisdiction to go into the veracity of the allegations made in the said complaint.

5 Hence having regard to the reliefs sought in the above Petition as also having regard to the directions issued by the Constitution Bench of the Apex Court in the matter of Lalita Kumari Vs. State of UP (supra), we deem it appropriate to direct the Senior Inspector of Police, NRI Police Station, Navi Mumbai to consider the complaint dated 25th November 2017 of the Petitioner, which is annexed at Exh.G page 182 of the above Petition and take an appropriate decision thereon within two weeks from date and communicate such decision to the Petitioner. It would be contingent upon the decision that would be communicated by the NRI Police Station, Navi Mumbai to the Petitioner that it would be open for the Petitioner to seek appropriate recourse, if the said decision is not acceptable to the Petitioner.

6 Insofar as the second prayer clause (b) is concerned, the learned
counsel appearing for the Petitioner makes a statement that the Petitioner
would not press the said prayer at present but would reserve his right to seek
this prayer at a later stage, if so advised.

7 In the light of the directions that we have issued, the grievance of
the Petitioner would not survive. The above Writ Petition is allowed to the
aforesaid extent. Rule is accordingly made absolute.

8 In view of the disposal of the Petition, the Criminal Application
No.95 of 2018 and Criminal Application No.175 of 2018 do not survive and the
same to accordingly stand disposed of.

9 Parties to act upon an ordinary copy of this order duly
authenticated by Court Sheristedar/Associate.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]