

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

**WRIT PETITION NO. 1021 OF 2018
WITH
CRIMINAL APPLICATION NO.341 of 2018
IN
WRIT PETITION NO.1021 of 2018**

Gurunath Sadashiv Phondekar	.. Petitioner
Versus	
The State of Maharashtra & Anr	.. Respondents

...

Mr. Subhash Jha with Mr.Amol D. Joshi for the petitioner in WP 1021/18 and applicant in APPW 341/18.
Mr.Deepak Thakare, G.P with Mrs.P.P. Shinde, APP for the State.
Mr.Balasaheb Kakade ACP, with Mr.P.G. Sanas, PI from EOW present.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 17th SEPTEMBER 2018

P.C:-

1 Heard Mr.Subhash Jha, learned counsel for the petitioner and Mr.Thakare, learned GP for the State.

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2 The petition is filed for following reliefs :

- (a) That this Hon'ble Court be pleased to issue Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order, direction thereby ordering and directing to the Respondents to furnish the papers and proceedings of C.R.No.27 of 2015 and copy of application dated 01/01/2018 before this Hon'ble Court and after going through the same, this Hon'ble Court be pleased to pass appropriate order, direction as this Hon'ble Court may deem fit and proper.
- (b) That this Hon'ble Court be pleased to issue Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order, direction thereby ordering and directing to the respondent no.4 to investigate the matter pertaining to C.R.NO.27 of 2015 and submit the final report before the Hon'ble Court expeditiously as possible in accordance of the provisions of law.
- (c) That this Hon'ble Court be pleased to issue Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order, direction thereby ordering and directing the respondent nos.1 to 4 not to disturb the investigation of C.R.No.27 of 2015 conducted by Investigation Officer Mr.Bajrang Parab and furthermore not to transfer the Investigating Officer or the investigation.

3 The above application is filed seeking leave to amend the petition. There are two C.Rs registered with EOW bearing C.R.No.26 of 2015 for offences punishable under

Sections 406, 409, 420 r/w Section 34 of the IPC and Sections, 4, 5 11 and 13 of the Maharashtra Ownership of Flats Act and C.R.No.27 of 2015 for offences punishable under Sections 420, 454, 457, 379, 380, 120B r/w section 34 of the IPC. So far as the petitioner is concerned, he is accused in C.R.No.27 of 2015 and he is the complainant in C.R.No.26 of 2015.

4 The investigation of both the C.Rs was initially carried by Shri Bajrang Parab, PI from EOW, Unit II. By the present petition, the petitioner sought a relief to the effect that the investigation of the said C.Rs should be completed by Bajrang Parab only and direction was sought from this Court not to transfer the investigation to any other Investigating Officer.

5 After investigation, Shri Bajrang Parab has submitted a report to Commissioner of Police and during the pendency of the petition, Shri Bajrang Parab, PI, EOW was transferred. On the basis of the report, the Commissioner of Police constituted a Special Investigation Team (S.I.T)

consisting of three persons and it was headed by Assistant Commissioner of Police. The Commissioner directed the S.I.T to investigate both the Crimes being C.R.No.26/15 and 27/15. What is important to note is that the investigation of the S.I.T was directed to be monitored or supervised by the Deputy Commissioner of Police.

6 In the light of the earlier interim order passed by this Bench, the S.I.T has submitted two reports dated 30th August 2018 and 12th September 2018.

 We have gone through the same. We find that investigation of the subject FIR is in progress and it is being investigated by the S.I.T. By the above application, petitioner seeks to amend the petition and thereby seeks direction to the effect that investigation of the subject FIR be restored to Shri Bajrang Parab.

7 We have noted that Shri Bajrang Parab is already transferred and also the investigation of the subject FIR being carried out by S.I.T and it is at an advanced stage, hence, we

are not inclined to interfere in the petition. We are also not inclined to entertain the amendment application and re-introducing Shri Parab into the investigation.

7 Needless to mention that if the petitioner is aggrieved by the investigation at a later stage, he may take appropriate steps as he deems fit.

8 With the aforesaid observation, the petition as well as the application is dismissed.

The S.I.T reports dated 30th August 2018 and 12th September 2018 be re-sealed and kept in the custody of the Registry.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

Manali
Prasanna
Tilak

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Prasanna Tilak
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