

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

CRIMINAL WRIT PETITION NO.1101 OF 2018

Dr. Nooruddin Nizamuddin Ansari : Petitioner.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Nilesh M Wable for the Petitioner.

Mr. Deepak Thakare, PP a/w Mrs. S D Shinde, APP for the Respondent/State.

Ms. Sairuchita Chowdhary i/by J Shekhar and Co. for the Respondent Nos. 2 to 5.

Mr. Momin Mohd. Farooque Nisar for the Respondent Nos.7 to 10

Mr. Gautam J Jain for the Respondent No.11.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
DATE : 20th JULY 2018**

P.C.

1 The above Writ Petition has been filed seeking a direction against the Investigating Agency to include the name of the Accused Nos.6 to 10 in the FIR bearing No.II-56 dated 24/04/2017.

2 In so far as the said relief sought by the Petitioner is concerned, the learned Public Prosecutor Shri Deepak Thakare informs us that the charge-sheet has been filed only against the Respondent No.11 and all other accused have not been found fit to be sent for trial on account of the lack of evidence against them.

3 We have perused the final report filed under Section 173(2) of the

Criminal Procedure Code in the said context and after such perusal we found that the mandate of Section 169 of the Criminal Procedure Code as expounded by the judgments of the Apex Court as well as the Division Bench of this Court has not been followed. Besides merely referring to the supplementary statement of the complainant, the final report in so far as the accused against whom the charge-sheet has not been filed does not contain any material. It is mandated by the aforesaid judgments that in the report under Section 173 of the Criminal Procedure Code, the reasons why the accused against whom there is no evidence are not required to be proceeded with would have to be stated in some detail. It is also contemplated that the Investigating Officer has to arrive at a conclusion in respect of the said accused either by way of "A", "B" or "C" Summary Report. That has not been done in the instant case.

4 Upon this, the learned Public Prosecutor Shri Deepak Thakare states that the detailed reasons for not filing the charge-sheet against the accused against whom it is not filed would be filed in the Trial Court within two weeks from date as and by way of a supplementary report. Statement accepted.

5 If such a supplementary report is filed, the Trial Court is directed to accept the same and take it on record. It is after the said supplementary report is filed that it would be open for the Petitioner to seek appropriate

recourse in law before the Trial Court. It is for the learned Judicial Magistrate First Class to take a decision thereon in respect of either accepting or rejecting the said supplementary report in so far as the accused against whom the charge-sheet is not filed. We express no opinion in that regard.

6 In so far as prayer clauses (b) and (c) are concerned, in the light of the above, there is no warrant to consider the same.

7 The above Writ Petition is accordingly disposed of.

8 All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

Laxmikant
Gopal
Chandan

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by Laxmikant
Gopal Chandan
Date: 2018.07.20
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