

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

CRIMINAL WRIT PETITION NO.3687 OF 2017

Shushma Shiv Milan Singh and anr. : Petitioners.
Versus
The State of Maharashtra and anr. : Respondents.

Ms. Gulestan M Dubash for the Petitioners.
Mrs. P P Shinde, APP for the Respondent/State.
Mr. M O Chavan, PI of Upnagar Police Station, Nashik present.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 16th JULY 2018

P.C.

1 The above Criminal Writ Petition has been filed for seeking relief of transfer of investigation in C.R. No.I-274 of 2017 for the offences punishable under Sections 307, 341, 34 of the Indian Penal Code and Sections 3 and 25 of the Arms Act registered with Upnagar Police Station, Nashik on 07/07/2017. The said FIR has arisen out of the incident which took place on 07/07/2017 in which incident it is alleged that the Petitioner No.2 was shot at by one of the accused.

2 The relief of transfer of investigation is sought on the ground that the accused are persons of means and that they have the capacity to influence the Investigating Agency. It is averred in the above Writ Petition that in view of the fact that the Petitioners had complained against some of the police officers who had made demand of illegal gratification on the basis of which a

case under the Prevention of Corruption Act came to be registered, that the police piqued by the said fact are not carrying out a fair, proper and impartial investigation.

3 The learned APP has tendered the report dated 16/07/2018 of Shri Mahendra O Chavan – Police Inspector (Crime), Upnagar Police Station, Nashik. In the said report it is mentioned that perusal of the CC TV footage does not show the presence of the accused at the relevant time. In so far as gun shot wound is concerned, it is stated that from the curie report it appears that the same is a self-inflicted wound.

4 It is required to be noted that whilst opposing the application for anticipatory bail filed by the three accused i.e. Tarun Shankarlal Thakkar and two others, the Investigating Agency has mentioned to the following effect :-

“As per his submissions, he has seen the accused in the C.C.T.V. Footage”

The same is reflected in the order dated 15/07/2017 passed by the learned Addl. Sessions Judge-6, Nashik by which order the application for anticipatory bail came to be rejected.

5 Hence there appears to be volte face in so far as Investigating Agency is concerned as during the course of the investigation albeit might be at

the preliminary stage a report was submitted that the CC TV footage discloses the presence of the accused. No plausible explanation for the contradiction was given by the learned APP as also there is no convincing explanation as to how the conclusion that the gun shot wound is a self inflicted wound was given. The aforesaid facts therefore prima facie indicate that the investigation is not being carried out in a proper manner and there appears to be substance in the contentions of the learned counsel for the Petitioners that the accused are influencing the manner in which the investigation is being carried out. Hence in the facts and circumstances of the case, we deem it appropriate to issue the following directions :-

- i] The investigation into C.R. No.I-274 of 2017 would stand transferred from Upnagar Police Station, Nashik to the State CID, Pune. The concerned Superintendent of Police, State CID, Pune is directed to assign the investigation to an appropriate Investigating Officer as also monitor the investigation.
- ii] The Upnagar Police Station, Nashik is directed to hand over the papers of the investigation till this stage to the State CID, Pune to facilitate the investigation by the said State CID, Pune.
- iii] The State CID, Pune through the Investigating Officer to submit a

report in a sealed envelope to this Court within four weeks from date i.e. on or before 13/08/2018.

- iv] With the directions as aforesaid the above Writ Petition is disposed of.
- v] The learned APP to communicate the aforesaid developments to the concerned Superintendent of Police, State CID, Pune forthwith.
- vi] 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]