

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 4064 OF 2018****WITH****WRIT PETITION NO.4065 of 2018****WITH****WRIT PETITION NO.4111 OF 2018****WITH****WRIT PETITION NO.4112 OF 2018****WITH****WRIT PETITION NO.4113 OF 2018****WITH****WRIT PETITION NO.4114 OF 2018****WITH****WRIT PETITION NO.4115 OF 2018****WITH****WRIT PETITION NO.4116 OF 2018****WITH****WRIT PETITION NO.4117 OF 2018****WITH****WRIT PETITION NO.4146 OF 2018****Dhananjay Gawade****.. Petitioner****Versus****Sr.Inspector of Police & ors****.. Respondents****...****Mr. M.S.Mohite i/b R.S. Kadam for the petitioner.****Mrs.A.S. Pai, APP for the State.****CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.****DATED : 11th OCTOBER, 2018**

P.C:-

1 Heard Mr.M.S. Mohite, learned counsel for the petitioner and Mrs.Pai, learned APP for the State.

2 The above petitions are filed for quashing and setting aside the respective C.Rs registered with various police stations mainly for offences punishable under Sections 384, 386 and 506 of the Indian Penal Code.

3 Mr.Mohite, learned counsel for the petitioner submitted that petitioner is an RTI (Right to Information) Activist and in the year 2015, he was elected as Corporator of Vasai-Virar Municipal Corporation. He further submits that during the period commencing from 31st March 2018 and 12th April 2018, 10 CRs which are subject matter of the present petitions came to be registered against the petitioner on the allegation of extortion. The case of the petitioner is that he has been falsely, maliciously and insidiously arraigned as the accused in the multiple FIRs and he is a victim of meticulously, orchestrated conspiracy by Police Officials, Municipal Officers of the Virar-Vasai Municipal Corporation and builder lobby Mafia alike. The petitioner has made categorical statement that he being an activist and a whistle-blower had sought information against many builders operating in the area and caused successful prosecution of such errant builders and had stalled their rampant bribing cartel and this has irked the

builder lobby and FIRs are nothing but a counter-blast as against his actions. The petitioner has set in the petition the details of the number of cases which he has initiated against the various builders.

The petitioner has also made specific allegation in the petition that the said FIRs were lodged after the Superintendent of Police held a press conference inviting people at large to come forth and lodge complaints against the petitioner, and according to the petitioner, this exercise is unprecedented which opened the flood gates for false, frivolous and concocted FIRs against him with reference to the incidents from 2015 to 2017 and that itself, according to the learned counsel, smacks of *malafide* and arbitrariness.

4 We have heard the petitions on the last date of hearing and on going through the petition, we have asked the learned APP that in light of the multiple FIRs attributing similar *modus operandi* of extortion, it would be appropriate that if all the 10 FIRs are investigated by one common independent agency.

5 Mrs.Pai, learned APP has sought instructions and placed before us a report submitted by the Superintendent of Police dated 9th October 2018 and also report dated 25th September 2018 filed by the Anti Extortion Cell in respect of Crime No.55 of 2018 which was initially registered at Kasar

Vadavli Police Station, but later on, being investigated by the Anti Extortion cell. Mrs. Pai would submit that the Superintendent of Police, Palghar in light of the FIRs against the petitioner had already constituted a Special Investigation Team which would work under the supervision of Superintendent of Police, Palghar. She would submit that this would cater the interest of the present petition who has been alleged of serious offences of extortion and in the 9 (nine) offences, where he has demanded an amount of Rs.Four Crore twenty lakhs out of which he has received Rs.27,75,000/- (Rupees Twenty Seven Lakhs Seventy five thousand) as extortion money and Rs. Ten Lakhs in form of cement and steel. According to Mrs.Pai, the specific allegation is that the petitioner along with his associates has obtained information in more than 500 cases under the Right to Information Act and has misused the said information by extorting money from those who have been alleged of some breaches. She thus submits that an independent Special Investigation Team would conduct the investigation.

6 Mr.Mohite submits that investigation may not be impartial if the same is monitored by Superintendent of Police, Palghar in the light of allegations made in the petition. Learned APP however submitted that the Superintendent of Police against whom allegations are levelled in the petition is already transferred and new Superintendent of Police is appointed.

7 We have gone through the FIR. These FIRs are registered with Virar Police Station, Tulinj Police Station and Kasarvadavali Police Station. The offence at Kasarvadavli Police station is transferred to Anti-Extortion Cell, Thane. All these FIRs are registered within the interval of one month. The allegations are similar to the effect that petitioner extorted money from these complainants. The FIRs relate to the incident from 2015 to 2018. The allegations levelled in the FIR are individual and reflect that the complainants in the respective FIRs were threatened to demolish the structures which were not in consonance with the planning guidelines or else to meet the illegal demands of the petitioner and his gang. It is alleged that the said information about the different projects was sought under the Right to Information Act and it is alleged that the builders were threatened by taking recourse to the said information.

8 Though all the petitions seek a relief of quashment of the respective FIRs, we are not at all inclined to quash the said FIRs and we are of the opinion that the allegations levelled are serious and therefore, should be investigated. We are therefore, not inclined to grant the said prayer. However, looking to the gravity and seriousness of the allegations levelled against the petitioner and on taking into consideration the contentions raised in the petition against the entire police

machinery, including the highest Officer i.e. Superintendent of Police, we are of the opinion that the FIRs against the petitioner should be investigated by an independent and impartial authority since serious allegations are levelled against the Superintendent of Police himself. In the circumstances, we dispose of this petition by passing the following order :-

ORDER

The investigation of the subject C.R. Nos. 271/2018, 381/2018, 348/2018, 331/2018, 446/2018, 430/2018, 386/2018, 330/2018 and 402/2018 under Sections 384, 386, 506 r/w Section 34 of the IPC pending with Tulinj and Virar Police Stations and in respect of C.R.No. 552-2018 pending with Anti Extortion cell are transferred to State CID, Thane. Investigation papers of the said FIR shall be handed over to the State CID within a period one week from today. State CID shall thereafter continue investigation and submit appropriate report as expeditiously as possible.

Mrs.Pai, learned APP at this stage request for stay to this order in order to enable her to approach the Hon'ble Apex Court. When we asked the learned APP, she is not ready to make a statement that the present Investigation (SIT) shall not proceed further with the investigation of the subject FIR. If the stay is granted to this order, the purpose of transferring the investigation to independent agency for the reasons which we

have recorded above, would be rendered futile and we accordingly reject the request.

All concerned to act on an authenticated copy of the order.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)