

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

CRIMINAL WRIT PETITION NO.5059 OF 2017

IDBI Bank Limited

Through its authorised Representative

Mahantesh M Patil

Asstt.General Manager (Legal Department) : Petitioner.

Versus

The State of Maharashtra and anr. : Respondents.

Mr. S V Marwadi i/by Mr. S I Kantharia for the Petitioner.

Mr. K V Saste, Addl. PP for the Respondent/State.

Mr. Sanjeev Kadam i/by Mr. Prashant Darandale for the Respondent No.2.

CORAM :R. M. SAVANT, &

SANDEEP K. SHINDE, JJ

DATE : 18th JANUARY, 2018

P.C.

1 The above Writ Petition has been filed questioning the legality and validity of the order dated 11/10/2017 passed by the learned Principal District and Sessions Judge, Pune in Revision Application No.360 of 2017. The further relief sought is that a direction be issued to transfer the investigation in respect of the FIR being CR No.689 of 2010 registered with Yerwada Police Station, Pune pursuant to the directions issued under Section 156(3) of the Criminal Procedure Code by the learned J.M.F.C. Pune by order dated 09/01/2012.

3 The genesis of the challenge to the order dated 11/10/2017 therefore lies in the said order dated 09/01/2012. By the said order the Application filed by the Petitioner herein i.e. the Complainant for further

investigation by the Central Bureau of Investigation i.e. CBI came to be rejected. The said order was challenged by way of a Revision before the Sessions Court, Pune. The Revision Application has been rejected by the impugned order dated 11/10/2017 principally on the ground that prerogative to transfer the investigation to the CBI is that of the Constitutional Courts meaning thereby the High Court and the Apex Court and no such power is vested in the Sessions Court.

4 The learned counsel appearing on behalf of the Petitioner Shri S V Marwadi would seek to make submission as regards the manner in which the report dated 17/10/2011 came to be submitted by the Investigating Agency i.e. the Yerwada Police Station, Pune.

5 Having regard to the fact that no process has been issued so far and that the proceedings are at the stage where the report under Section 169 of the Criminal Procedure Code has not been accepted we queried the learned Addl.PP as to why no Application for further investigation as contemplated by Section 173 (8) of the Criminal Procedure Code was filed by the Police. Upon this the learned Addl.PP appearing on behalf of the Respondent/State would contend that the concluding portion of the order dated 09/01/2012 being worded in a particular manner, the Police were of the view that they could not apply for further investigation to be carried out. However, the learned Addl.PP

Shri K V Saste, on instructions of the Investigating Officer PI Ashok Kadam of the Yerwada Police Station, Pune makes a statement that the Investigating Officer would make an Application for further investigation under Section 173(8) of the Criminal Procedure in the Trial Court. If any such Application is made, the Trial Court would consider the said Application on its own merits and in accordance with law. The same to be considered expeditiously and not later than two weeks of the same being filed. In view of the said statement of the learned Addl. PP, the learned counsel appearing for the Petitioner Shri S V Marwadi on instructions states that the Petitioner would not press the prayer for transfer of investigation to the CBI at this stage. In view thereof, there is no warrant to keep the above Writ Petition pending. The same to accordingly stand disposed of.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]