

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

CRIMINAL WRIT PETITION NO.5182 OF 2017

Vidya Sudhakar Avasharmal : Petitioner.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Ashok Kumar Dubey a/w Mr. Rahul Dwivedi i/by SAVJ Law Solutions for the Petitioner.

Mr. Avinash Kamkedkar, Addl. PP for the Respondent/State.

IO – PSI Mr. Rahul Khetre of Vinoba Bhave Nagar, Police Station present.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 04th JULY 2018

P.C.

1 The above Writ Petition has been filed for seeking a direction to transfer the investigation in respect of the FIR being No.173 of 2017 registered with the Vinoba Bhave Nagar Police Station, Mumbai for the offences punishable under Sections 420, 498(A), 323, 504, 506, and 34 of the Indian Penal Code. The said relief is sought on the basis that the investigation is not being properly carried out by the police and that the arrests have also not been made.

2 The learned Additional Public Prosecutor Shri Avinash Kamkhedkar on instructions of the Investigating Officer informs us that the charge-sheet in the said case has been filed on 08/12/2017 by the Vinoba Bhave Nagar Police Station, Mumbai except against one Nilesh Mhaske against

whom the allegation is abetting the offence under Section 313 of the Criminal Procedure Code. The learned Additional Public Prosecutor further informs us that in so far as the said accused is concerned, the charge-sheet has not been filed in view of the supplementary statement of the Petitioner recorded on 07/10/2017 wherein she has stated that the allegations made by her against the said Nilesh Mhaske where in the heat of the movement and she has no grievance against the said Nilesh Mhaske. However, the record discloses that the Petitioner immediately on 25/10/2017 has vide letter of the said date made protestation against the manner in which her statement has been record both as regards the fact that the statement was not recorded by a lady police officer as also as regards the contents. However, having regard to the fact that the charge-sheet has now been filed and since it has not been filed against the said Nilesh Mhaske on the basis of the supplementary statement of the Petitioner we do not deem it fit to interdict at this stage. It is always open for the Trial Court under Section 319 of the Criminal Procedure Code to proceed against a person against whom the charge sheet has not been filed, if the Trial Court reaches the said conclusion. The above Writ Petition to accordingly stand disposed of.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]