

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 45 OF 2018

Janta Nagri Sahakari Pat Sanstha Maryadit, D-Raja, Thr. President Shantilala s/o
Nemlalsa Singalkar

Vs.

The State of Maharashtra through P.S.O. P.S. Deulgaon Raja Buldhana and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri M.R. Joharapurkar, Advocate for the Petitioner.
Shri A.J. Thakkar, Advocate for the Petitioner
Shri Mahesh Rai, Advocate for the Respondent 2 to 6.
Shri N.H. Joshi, Addl. P.P. for Respondent 1.

CORAM: ROHIT B. DEO, J.

DATE: 21st MARCH, 2018.

The challenge is to the order dated 03-11-2016 rendered by the learned Judicial Magistrate First Class, Deulgaon Raja in Regular Criminal Case 10/2012, by and under which the application moved by the informant under Section 173(8) of the Criminal Procedure Code, 1973 seeking a direction to the investigating agency to further investigate the crime is rejected. This order was challenged in Criminal Revision 4/2017 which is rejected by the learned Additional Sessions Judge, Buldana by order dated 16-08-2017, which order is also impugned herein.

2. In view of the settled position of law, *inter alia* by a relatively recent judgment of the Hon'ble Apex Court in *Amrutbhai Shambhubhai Patel vs Sumanbhai Kantibhai Patel and others reported in (2017) 4 SCC 177*, that it is only the investigating officer who can move the Court under Section 173 (8) of the Criminal Procedure Code and that the complainant or informant has no locus to ask for additional or further investigation, the learned Counsel Shri A.J. Thakkar seeks leave to withdraw the petition.

3. However, the learned Counsel Shri A.J. Thakkar submits that petitioner may, if so advised, invoke this Court's extra-ordinary jurisdiction seeking appropriate directions to the investigating officer and that withdrawal of this petition should not come in the way of the petitioner in any further proceedings. It is obvious, that the only issue which is decided by the Courts below is the right of the defacto complainant or the informant to approach the Court Under Section 173 (8) of the Criminal Procedure Code. In this view of the matter, the apprehension of the learned Counsel is misconceived.

The petition is permitted to be withdrawn, with
liberty.

JUDGE

RKN