

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

WRIT PETITION NO.3505 OF 2017

Air India Ltd. and ors.Petitioners
versus
The State of Maharashtra and ors.Respondents
along with

CRIMINAL APPLICATION NO. 389 OF 2018

IN

WRIT PETITION NO.3505 OF 2017

MR. K. V. JagannatharaoApplicant/
Org. Respondent No.3

In the matter of :
Air India Ltd. and 3 ors.Petitioners
versus
The State of Maharashtra and 2 ors.Respondents
with

WRIT PETITION NO.2785 OF 2017

Baburao Tulshiram Mukhedkar and anr.Petitioners
versus
The State of Maharashtra and anr.Respondents
with

WRIT PETITION NO. 3401 OF 2017

Bhagwati Sharan TiwaryPetitioner
versus
The State of Maharashtra and 2 ors.Respondents
with

WRIT PETITION NO.5567 OF 2018

along with

CRIMINAL APPLICATION NO. 4 OF 2019

Sanjay LazarPetitioner
versus
The State of Maharashtra and anrRespondents

with

WRIT PETITION NOS.5595 & 5596 OF 2018

Air India Ltd. and anr.Petitioners
versus
The State of Maharashtra and 2 ors.Respondents

with
WRIT PETITION NO.563 OF 2019

Anil D. Khumbhare and anr.	Petitioners
versus	
The State of Maharashtra and anr.	Respondents

Mr. Kevic Setalwad, senior advocate along with Ms.Kavita Anchan, Ms.Hima Shaikh and Mr.Arsh Mishra I/b. M. V. Kini and Co., advocate for the petitioners in writ petition Nos.3505 of 2017 and 5595 & 5596 of 2018.

Mr. Shyam Dewani along with Mr. Chirag Chanani I/b. Dewani and Associates, advocate for the petitioner in writ petition No. 563 of 2019.

Ms. Sonal Parab I/b. Rajeev Sawant and Associates, advocates for the petitioners in writ petition Nos.2785 and 3401 of 2017.

Mr. Anilkumar K. P., advocate for the petitioner in writ petition No.5567 of 2018.

Mr. S. R. Shinde, APP for the State.

Mr. K. V. Jagannatharao, respondent -in- person in all the petitions and applicant-in-person in criminal application No.389 of 2018.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 16th APRIL, 2019.

P. C. :

1. Mr. Jagannatharao, applicant-in-person, at the outset, seeks leave to withdraw the criminal application No.389 of 2018. Leave as prayed for, is granted. The criminal application No.389 of 2018 is, accordingly, dismissed as withdrawn.

2. So far as rest of the matters are concerned, we have heard Mr. Setalwad, learned senior counsel for the petitioners. We have also heard Mr. Jagannatharao, respondent-in person.

3. Having considered the rival submissions, now we are called upon to decide the following issues :

I) whether the petitioners are public servant within the meaning of Section 21 of the Indian Penal Code, 1860?

ii) whether magistrate can issue order under Section 156(3) of the Code of Criminal Procedure, 1973, without obtaining prior sanction?

4. Learned senior counsel for the petitioners as well as respondent -in-person invited our attention to several decisions of the Apex Court. Having perused the same, we are of the opinion that the issue requires detailed deliberation. We, therefore, grant Rule.

5. During pendency and till final disposal of the petitions, the interim relief granted earlier, shall continue to remain in operation.

6. The Registry is directed to place the petitions for final hearing on 15th July, 2019.

7. The respondents waive service of notice.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]