

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

WRIT PETITION NO.2244 OF 2019

Sharmila Sunil Suradkar and Anr.

...Petitioners

vs.

The State of Maharashtra and Ors.

...Respondents

**AND
CRIMINAL APPLICATION NO.243 OF 2019
IN
WRIT PETITION NO.2244 OF 2019
AND
CRIMINAL APPLICATION NO.278 OF 2019
in
WRIT PETITION NO.2263 OF 2019**

Mr. Saurabh Butala a/w Pradhuman Chauhan i/b Mr. Harshad Bhadbhade
for the intervenor.

Mr. Suhas Oak a/w Mr. Pravil Sorawane i/b KLS Legal for the Petitioner.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
N. R. BORKAR, JJ.**

DATE : 3/2/2020.

PC.:

. The petitioner a purchaser of bungalow has approached this Court with grievance that the bungalow scheme is now sought to be altered to residential tower/flat scheme. Submission is the petitioner therefore filed the complaint which was registered as FIR No.I-182/2017 under section 415, 418, 420, 120-B of IPC and sections 10,11,13, 13A and 14 of MOFA Act. In this offence, the office of the Assistant Police Commissioner, Thane filed "B" summary on 20/8/2018. On 4/1/2019 trial Court has directed further investigation. That investigation has not taken place till date.

2. In Writ Petition No.2263/2019 the very same petitioner pointed out that the office of Thane Municipal Corporation are now turning back on their earlier decision and respondent No.5 had filed FIR No. 1-272/2017 dated 23/11/2017. His attempt is to show that no offence has been committed. Prayer therefore is to change Investigating Officer and to see that the police investigates into the offence as pleaded at the earliest.

3. Criminal Application Nos.243/2019 and 278/2019 are taken out by the developer in the matter. Prayer is to allow the applicant to intervene in Writ Petition No.2244/2019 and Writ Petition No.2263/2019.

4. We find that the competent Court has after rejecting "B" summary on 4/1/2019 ordered further investigation. Period of more than one year has expired thereafter. That order has not been questioned by the applicant seeking leave to intervene in writ petitions.

5. In the present matters, learned APP is seeking time as investigating Officer is not present.

6. However, taking overall view of the matter we find that interest of justice can be met with by directing Investigating Officer to complete investigation within 2 months from today. The applicant developer has no locus to oppose it.

7. We do not find it necessary to change investigation officer since "B" summary was submitted on 20/8/2018 and that officer may not now be continuing in same Police Station. However, it is open to respondent No.2/ the Commissioner of Police to order investigation by another officer, if the very same Investigating officer is still continuing there.

8. With this direction and keeping all contentions of the parties open, we dispose of the petition. In this situation, we dispose of the applications seeking leave to intervene.

9. In view of this order in Writ Petition No.2244/2019 no separate order is required in Writ Petition No.2263/2018 as investigation has to proceed further.

(N. R. BORKAR, J.)

(B. P. DHARMADHIKARI, J.)