

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3383 OF 2019**

Jignesh K. Goradia and anr. ... Petitioners
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Virkam Sutaria a/w. Mr. Sahil Saiyed for the Petitioners.
Mr. S.R. Shinde, APP for the Respondent – State.
Mr. Akhilesh Dubey i/b Troy Legal for Respondent No.4.
API Pradeep Sawant, EOW, Unit-II, New Mumbai present.

**CORAM : B.P. DHARMADHIKARI,
ACTING CHIEF JUSTICE &
N.R. BORKAR, J.**

DATE : FEBRUARY 26, 2020.

P.C.

1] On 29th January 2020, this Court has passed the following order:

“1] Heard for some time. Before proceeding further, we find it proper to direct the Petitioners to co-operate with Respondent No.2-Investigating Officer, in investigation into the grievance of Respondent No.4-Vishrut Tripathi.

2] We direct the Petitioners to appear before Respondent No.2 on 4th February, 2020 at 11.30 a.m. and abide by their further instructions in the matter.

3] List for further consideration on 26th February, 2020. In the meanwhile, Interim orders already granted to continue.”

2] Accordingly, the petitioners have appeared before the Investigating Officer. The Investigating Officer has submitted his report dated 26th February 2020 to the Office of P.P. It is taken on record as “Exhibit-A”. In the said report, it was mentioned that total 13 flats and one shop were sold twice by the petitioners. In the investigation, the Investigating Officer found that there was twice sale of 13 flats, but it was after cancelling the first 13 agreements. The persons with whom agreements were first entered into were paid back their amount. In last paragraph, it is mentioned that the facts appearing in Crime No. 64 of 2017 were reappearing in Crime No. 49 of 2018.

3] It is not in dispute that investigation in Crime No. 64 of 2017 is over and charge-sheet has been filed.

4] According to the petitioners, there is no question of registration of separate offence vide Crime No. 49 of 2018 and the grievance, if any, ought to have been looked into as a part of Crime No. 64 of 2017.

5] According to respondent No.4- complainant, it is a new offence which did not form part of earlier investigation which has been complained of and therefore, rightly a new crime has been registered.

6] Our attention is also drawn to the prayer clause in the petition to urge that there is a prayer to club the investigation.

7] We find that clubbing of investigation, at this stage, is not possible since charge-sheet is already filed in one matter. However, the Trial Court can look into the report submitted to it and find out how cognizance thereof needs to be taken. Whether it is a part of the earlier crime in which charge-sheet is filed or then it has to be treated as second offence.

8] Investigating Officer is, therefore, permitted to submit report to the Trial Court as per law within two weeks from today. The Trial Court can, therefore, hear the parties and take suitable decision in accordance with law.

9] Non-availability of provision of section 219 of Cr.P.C. is also one of the contention raised by respondent No.4 before us. We are deliberately avoiding to observe anything on it, at this stage.

10] Till the Trial Court passes suitable order after receipt of report, no coercive steps against the present petitioners. However, that order shall be passed in next four weeks after the report is filed before the Trial Court.

11] With these directions, we dispose of the present petition.

(N.R. BORKAR, J.)

(ACTING CHIEF JUSTICE)