

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1377 OF 2018

JAGANNATH MANGU MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.A.R.Syed, Advocate for the petitioner.
Mr.K.S.Patil, APP for respondent Nos. 1 to 3.

(CORAM : RAVINDRA V. GHUGE AND
B.U.DEBADWAR, JJ.)

DATE : MARCH 25, 2021

PER COURT :

1. The learned Prosecutor has placed before us a communication dated 23/03/2021 received by him from the Police Inspector Shri Ramkrishna Pawar, Zilla Peth Police Station, Jalgaon stating therein that the earlier Investigating Officer Shri G.V. Nikam, Police Sub Inspector had submitted a 'B' summary report on 09/01/2017 with reference to Crime No.04/2014. Same was rejected by the Trial Court. By this communication, taken on record and marked as "X-1" for identification, it is stated that Shri Nikam has thereafter submitted the "B" summary report for the second time, after conducting further investigation. The learned Advocate for the petitioner submits that Shri Nikam superannuated in April 2018 and according to his instructions, "B" summary report after further

investigations, has not been filed before the C.J.M. in Crime No.04/2014.

2. The learned Prosecutor places on record one more communication dated 25/03/2021 bearing O/W No.1117/2021 addressed to him by the present P.I. , Zilla Peth Police Station, Jalgaon, with a copy of the second "B" summary report dated 17/04/2019. Both are taken on record and collectively marked as "X-2" for identification.

3. It is well settled that a "B" summary report has to reach the learned C.J.M. in whose jurisdiction the police station is situated. In this case, the learned C.J.M. would be at Jalgaon. The petitioner has voiced two concerns. Firstly, Shri Nikam could not have submitted a "B" summary report after his superannuation and secondly, the "B" summary report dated 17/04/2019, has not reached the C.J.M.

4. As such, we are disposing off this petition with the following directions :-

[a] In the event, the "B" summary report dated 17/04/2019 has not been tendered to the learned Chief Judicial Magistrate, Jalgaon, the same shall be done within 7 days from today. Consequentially, respondent No.3 District Supdt. of Police, Jalgaon shall initiate disciplinary action against that S.H.O. of Zilla Peth Police Station, who is responsible for having failed in his duties in not submitting the "B" summary report with promptitude.

[b] Needless to state, if the “B” summary report is already filed, the directions set out in clause “A” hereinabove would be rendered redundant.

[c] The learned C.J.M. shall follow the procedure and issue notice to the petitioner/original informant calling for his protest say/reply/written statement by giving him a reasonable opportunity of atleast 15 days.

[d] After the reply of the informant is tendered, the learned C.J.M. would post the matter for hearing by giving at least 10 days time to the parties and after the oral hearing is completed, the learned C.J.M. would decide the fate of the “B” summary report, within 15 days thereafter.

[e] In the event, the petitioner finds that his grievance is not redressed or is aggrieved by the order of the learned C.J.M., he shall avail of the legal remedy, as is permissible in Law.

5. The learned Advocate for the informant prays for costs of Rs.1,00,000/- from the State since he has been made to run from pillar to post and approach this Court on two occasions. The learned Prosecutor submits that neither the State nor the Investigating Officer have any animosity towards the informant. The learned Advocate for the informant submits that the Investigating Officer may not have animosity towards him, but has great affinity towards the accused. We assure the informant that these aspects would be considered by us if he again has to approach this Court and if we find that the State / Investigating Officer have actually made the informant run from pillar to post and has been tired out for

oblique motives, we would pass appropriate orders.

(B.U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)