

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

Amk

WRIT PETITION NO. 1411 OF 2020

Harji Nanji Devda .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Ramesh Ramamurthy a/w. Mr. Saikumar Ramamurthy i/b Mr. Kamlesh Mishra for the Petitioner.
Mrs. S. D. Shinde, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 16th FEBRUARY, 2021.

P. C. :

1. The Petitioner has approached this Court for the following reliefs:
 - (a) that this Hon'ble Court be pleased to issue a writ of certiorari calling for the record and proceedings leading to the passing of the judgment dated 30th December, 2019 (Exhibit "F") of the State Police Complaints Authority and after examining the legality and propriety thereof be pleased to quash and set aside the same;
 - (b) This Hon'ble Court be pleased to issue a writ of mandamus directing the Respondents herein and the EOW, Crime Branch, Mumbai Police to register an FIR under the appropriate Sections of the Indian Penal Code against the Developer/Builder and its Directors as more particularly mentioned in the Complaints dated 17th August, 2017 (Exhibit "A") and 9th September, 2017 (Exhibit "B") and letter dated 15/10/2018 (Exhibit "F").
2. The Petitioner had submitted a complaint to State Police Complaints Authority claiming that the concerned police officers had not taken proper action and that FIR was not registered pursuant to the

grievance raised by him in connection with a particular document, which according to the Petitioner was interpolated at the behest of a Developer/Builder.

3. By the impugned order the Authority has taken note of the document in which there was alleged interpolation and upon giving interpretation of the same, a finding is rendered that the Petitioner was not justified in raising grievance against the concerned police officer.

4. It is held by the Authority that no action needs to be taken against the said police officers. Additionally it is noted that it appears to be a civil wrong in respect of which the Petitioner had already approached the Consumer Forum. On this basis, the complaint filed before the said Authority was rejected.

5. In the present Writ Petition, apart from challenging the said order passed by the Authority, prayer is made for a direction to the Respondents to register FIR on the basis of grievance raised by the Petitioner, in respect of interpolation in the document allegedly at the behest of the Developer/Builder.

6. Perusal of Sections 22P and 22Q of the Maharashtra Police Act, 1951, would show that the State Police Complaints Authority has been constituted by State Government under Section 22P of the said Act in order to entertain complaints against police officers and police personnel who have failed to perform their duties and functions. The powers and functions of the said Authority specified in Section 22Q of the said Act indicate as to what action can be taken by the said Authority against the police officers.

7. On a pointed query put to the learned Counsel for the Petitioner as to whether the said Authority under the provisions of the Act could direct registration of FIR on the basis of grievance raised by an aggrieved

person like the Petitioner, the learned Counsel fairly stated that there was no such power available with the Authority.

8. Yet it is submitted that the order impugned in the present Writ Petition would come in the way of the Petitioner if he seeks to invoke powers of the Magistrate under Section 156(3) of the Cr.P.C. pertaining to his grievance with regard to alleged interpolation in the said document.

9. We are of the view that the apprehension expressed on behalf of the Petitioner is misplaced because the findings rendered in the aforesaid order passed by the Authority dated 30.12.2019 cannot come in the way of the Jurisdictional Magistrate to consider the grievance of the Petitioner on its own merits.

10. In view of the above, we are of the opinion that the prayers made in the present Writ Petition cannot be granted. At the same time we clarify that if the Petitioner seeks to invoke Section 156(3) of the Cr.P.C. before the jurisdictional Magistrate, such Court shall proceed to consider the grievance of the Petitioner on its own merits, without being influenced by the order dated 30.12.2019 passed by the State Police Complaints Authority, which has been made subject matter of challenge in the present Writ Petition.

11. Writ Petition is disposed of with the above observations.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
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