

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2888 OF 2021

Smt. Anita Rajendra Kumbhar

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Shekhar Jagtap a/w. Sairuchita Chowdhary and Rhea Francis i/b.  
J. Shekhar & Co. for Petitioner.

Mr. J. P. Yagnik, APP for State/Respondent No.1.

CORAM : NITIN JAMDAR AND  
SARANG V. KOTWAL, JJ.

DATE : 4 DECEMBER 2021

P.C. :

. Heard the learned counsel for the parties.

2. The Petitioner who has lodged an F.I.R. on 23 August 2013 for the offences punishable under sections 406 and 420 of the IPC have approached this court with this Petition filed on 29 June 2021 with the following prayers :

*“A. The Hon’ble Court may kindly issue writ of mandamus and any other appropriate writ and/or direction and/or order and thereby direct the Respondent to investigate the matter from all the possible;*

*B. The Hon'ble High Court may kindly give appropriate directions and thereby direct the Respondent to remove the present investigating officer from the case and appoint an independent new investigating officer to look after this case;*

*C. The High Court may kindly give appropriate directions and thereby direct the Respondent to report the updates of the investigation of the present case before this Hon'ble Court;*

*D. The High Court may kindly give appropriate directions and thereby direct the Learned the Judicial Magistrate First Class to expedite the proceeding of R.C.C. of 525 of 2015, within a period of specific time period;*

*E. Pending the hearing and final disposal of this Writ Petition this Hon'ble Court may kindly stay the liquidation process which is passed by the Hon'ble National Company Law Tribunal;"*

3. The learned APP points out that, not only F.I.R. was lodged on 23 August 2013, but the charge-sheet was filed on 25 January 2016 and the investigation is complete and R.C.C.No. 525 of 2015 is going on.

4. The first question that would arise, since the Petitioner has invoked writ jurisdiction with delay and laches, the Petitioner, under the head of "limitation clause" in the petition has referred to F.I.R. dated 23 August 2013. We find no explanation whatsoever as to why the Petitioner could not approach this court earlier. The

learned counsel for the Petitioner submitted that the Petitioner had filed an F.I.R. against the concerned Investigating Officer on 25 January 2020 for demanding illegal gratification for investigation in the offence and the investigating officer was arrested. The answer to the question as to how this arrest and F.I.R. would be considered as relevant for the charge-sheet will be making a comment on the merits of the F.I.R. filed by the Petitioner. The ground of interference in writ jurisdiction on the ground of delay and laches in this Petition is always de hors the merits.

5. We find that the petition, in view of the above position, is hopelessly belated and, therefore, a direction as sought for re-investigation after almost six years of filing of the charge-sheet without any explanation coming from the Petitioner's side for such delay is not warranted.

6. The Writ Petition is accordingly rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)