

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4501 OF 2018

Vijay Gundappa Pujari]
of Mumbai, R/o. Room No.A/234, Vanjari]
Chawl, Hanuman Nagar, Narsipada, Near]
Fish Market, Akurli Road, Kandivali (E),]
Mumbai – 400 101.] ... Petitioner

Versus

1. The State of Maharashtra]
(Through Office of the Commissioner]
of Police, Crawford Market, Mumbai.)]

2. Mr. Raju Laxman Kasbe,]
Sr. Inspector of Police, Samta Nagar]
Police Station, Kandivali (E), Mumbai]
400 101.]

3. Netra Mule,]
Investigation Officer, attached to]
Samta Nagar Police Station, Kandivali]
(E), Mumbai – 400 101.] ... Respondents

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Mr. Aniket Vagal for the petitioner.
Ms. A.S. Pai, A.P.P. for the respondents-State.

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**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

DATED : 28TH JANUARY, 2021.

JUDGMENT :- [Per: Manish Pitale, J.]

1. By this writ petition, the petitioner is seeking a direction to respondent No.1 to transfer the investigation into an FIR registered at his behest to any other investigating agency. The petitioner has further sought a direction to initiate departmental enquiry against respondent Nos.2 and 3 alleging that they have shown laxity and negligence in undertaking investigation into the matter. A further prayer is made for a direction to respondent No.1 to submit a report of progress of investigation to Central Bureau of Investigation (“CBI”).

2. A perusal of the writ petition and the documents on record would show that the petitioner is the complainant at whose behest an FIR stood registered on 28/12/2017 against the accused persons for allegedly having trespassed into the suit property and assaulted the petitioner. It appears that there is already a civil dispute pending between the parties. The writ petition itself states that a suit for permanent injunction was filed by the petitioner in the year 2015 against the accused persons for restraining them from dispossessing the petitioner from the suit property.

3. It is also stated that on 24/08/2017, the suit was dismissed, against which a First Appeal has been filed by the petitioner and it is pending. It is in this backdrop that the petitioner submitted the complaint dated 28/12/2017 leading to registration of the aforesaid FIR. It is then

claimed by the petitioner that no progress has been made in the investigation and that therefore, the prayers made in the writ petition deserved to be granted.

4. We have heard learned counsel appearing for the petitioner as also learned A.P.P. appearing for the respondent-State.

5. The material on record does not justify the prayer for transfer of investigation or initiation of departmental enquiry made on behalf of the petitioner. The facts of the present case certainly, do not warrant any direction for transferring the investigation to any other agency much less the CBI. The rival parties are already embroiled in a civil litigation which is pending in the form of First Appeal filed by the petitioner. There is nothing on record to justify the prayers made on behalf of petitioner and, therefore, we are not inclined to pass any order as sought by the petitioner. Nonetheless, we are of the opinion, that the investigation in the aforesaid FIR needs to be expedited and taken to its logical end. Accordingly, the writ petition is dismissed.

6. The respondents are directed to ensure that the investigation is expedited and taken to its logical end, at the earliest.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)