

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4549 OF 2018

Nalini Kashinath Patil & Anr.

.... Petitioners

versus

State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Aniket Nikam i/b. Aakash Satpute, Advocate for Petitioners.
- Ms.S.D. Shinde, APP for State/Respondent.

CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, J.

DATE : 30 NOVEMBER 2021

P.C. :

. This Petition is filed seeking to quash C.R.No.II-250 of 2018 dated 22 August 2018 registered with Mumbainaka Police Station, District Thane, under section 7 of Prevention of Corruption Act.

MANUSHREE
V
NESARIKAR

Digitally signed by
MANUSHREE V
NESARIKAR
Date: 2021.12.03
16:23:13 +0530

2. The FIR came to be lodged against the Petitioner by a Police Inspector of Anti Corruption Bureau, Nashik, with the allegations that a complaint was received by Anti Corruption Bureau

on 16 August 2018, in respect of the Petitioner who was working as a Superintendent of the Child Remand Home, at Nashik. It was stated that the complainant's son, a minor, was arrested by Indira Nagar Police Station and he was sent to the Child Remand Home under the supervision of the Petitioner and the complainant wanted to apply for bail for his son. His advocate told him that a report was necessary from the Child Remand Home. For which purpose, the complainant approached the Petitioner on 13 August 2018 when the Petitioner asked for illegal gratification of Rs.2,000/- or something equivalent in kind. The investigating agency conducted pre and post trap panchanamas. The Petitioner is stated to have received a Carom Board in furtherance of the demand.

3. The learned counsel for the Petitioner submitted that, the transcript in the post-trap panchanama and conversation while receiving the Carom Board, would clearly show that the Carom Board was received for the children in the Home and not for personal gratification. The learned counsel submitted that therefore on the face of it, the offence is not made out and demand cannot be treated in isolation.

4. We have considered the contention of learned counsel for the Petitioner in the context of jurisdiction that is invoked before us. What the Petitioner is ultimately contending is that no further

investigation is required and the complaint/FIR should be quashed at the inception. In that context, we find that the demand for cash or something equivalent in kind. Whether the Carom Board was received for the benefit of children or for personal benefit, would be a matter of evidence and there could be explanation on the part of the prosecution as to the transcript that have been placed on record. Therefore to hold that no offence is made out whatsoever and no investigation is necessary, would be by evaluation of evidence, which will be done at the time of trial. Therefore we do not find that the case before us can be considered as rarest of rare case within the parameters as laid down by the Apex Court in the case of *M/s. Neeharika Infrastructure Pvt. Ltd. v/s. State of Maharashtra and Ors.*¹. The relief sought for therefore cannot be granted.

5. The Writ Petition is rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

1 AIR 2021 SC 1918