

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Writ Petition No.80/2021

(Panditrao Deshmukh and another V State of Maharashtra and others)

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.V. Deshmukh, Adv for petitioners.
 Mr. Doifode, APP for respondent nos. 1 to 3.

CORAM : M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 26-11-2021.

Heard learned Counsel for the parties.

2. The petitioners, by filing this petition seek following
 reliefs :-

"A. Direct the respondents and more specifically the Respondent No.3 to reinvestigate and/or further investigate the crime no.103/2013 registered in Respondent No.1 Police Station, Mehkar under Sections 395, 397, 412 of Indian Penal Code read with Section 3(1)(2)(3)(4) of Maharashtra Control of Organized Crimes Act, 1999 against the accused persons, and further direct the respondents to file charge-sheet as early as possible; and

B. Direct the respondents to deposit the gold ingot weighing 249 grams in crime no.103/2013 registered in respondent no.1 Police Station, Mehkar; and

C. Direct the respondent State to initiate disciplinary enquiry within stipulated time period and fix the responsibility on erring Police Officers and take appropriate action including penal action under law against them; and

D."

3. The learned Counsel for the petitioners states that the relief in terms of prayer clause (B) above has been worked out because the Gold involved has already been deposited. He states that at this stage he is not pressing the relief in terms of prayer clause (B), but the petitioners, have certainly some issues about the correct quantity of Gold and such grievance will be pursued before the appropriate Forum.

4. So far as prayer Clause (A) is concerned, Mr. Doifode, learned APP states that the investigations are in progress.

5. Since the investigations are in progress, we have no reason to believe that the same will not be continued in accord with law. In any case, once the charge-sheet is filed and the petitioners, are still of the opinion that further investigations are necessary, then they may apprise the appropriate Court and if a case is made out, the appropriate Court, has powers to direct further investigation including by way of resort to the provisions of Section 173(8) of the Code of Criminal Procedure, 1973.

6. The prayer Clause (C) seeks initiation of disciplinary enquiry on the erring Police Officer. Admittedly, no demand for

justice has been made in regard to this prayer. The Disciplinary Authorities have not been apprised of who are the erring Police Officers and what are the errors they might have committed. In the absence of any demand for justice, relief in terms of prayer clause (C) will be premature. This is because the petitioners have filed Writ of Mandamus without making a prior demand for justice which is ordinarily not permissible.

7. For the aforesaid reasons, we dispose of this petition by retaining with the petitioners, the liberties indicated above.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)