

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

CRIMINAL WRIT PETITION NO. 2426 OF 2022

Sanjay Shivajirao Bhosale	...Petitioner
Versus	
The State Of Maharashtra	...Respondent

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Mr. Kuldeep U. Nikam Advocate for the Petitioner.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	15th SEPTEMBER, 2022.

PER COURT:

1. The petitioner is the defacto complainant in C.R. No.42 of 2018 registered with Sanjay Nagar Police Station for offence under Section 341 of Indian Penal Code. The grievance of the petitioner is that proper investigation was not carried out. FIR was registered only for offence under Section 341 of Indian Penal Code. The charge-sheet is filed against the accused. It is submitted that the petitioner had preferred an application before the Court for further investigation. The learned JMFC vide order dated 25.04.2022 rejected the prayer under misconception that application was moved for re-investigation. It is submitted that although reference was made to Section 173(8) of Cr.P.C. In the application, inadvertently it was stated that application was regarding re-

investigation. In Paragraph – 8 of the application also it was stated that re-investigation is necessary. However, the contents of application would demonstrate that it was an application for further investigation. The operative part of impugned order mentions that prayer for re-investigation is rejected.

2. It is submitted that the petition may be allowed to be withdrawn with liberty to prefer fresh application before the trial Court seeking further investigation in accordance with Section 173(8) of Cr.P.C.

3. Without adjudicating the issues on merits and without giving any finding, whether the petitioner/defacto complainant has right to prefer an application under Section 173(8) of Cr.P.C.. The petitioner is allowed to withdrawn this petition with liberty to prefer such application for further investigation, which shall be decided by concerned Court in accordance with Law. The issue of maintainability of such application by complainant and all issues on merits of application are kept open.

4. Writ Petition is disposed off.

(PRAKASH D. NAIK, J.)