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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 991 OF 2022

Girish M. Londhe and anr.

... Petitioners

V/s.

State of Maharashtra

... Respondent

Ms Sarla V. Shinde for the Petitioners.

Mrs. M.H. Mhatre, APP for the Respondent/State.

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 26 JULY 2022.

P.C.

. By this petition, the Petitioners are seeking to quash FIR No. 583 of 2019 dated 29 June 2019 registered at Kondhawa Police Station, Pune *qua* the Petitioners for the offences punishable under Sections 304, 308, 464, 467, 468, 471 read with 34 of the Indian Penal Code (for short “IPC”) and also under Sections 3, 2L, 2M read with 13(1) of the Maharashtra Ownership of Flats Act, 1963 (for short “MOFA Act”). Charge-sheet has been filed and is placed on record.

2. The FIR was lodged by Police Sub-Inspector attached to Kondhawa Police Station, stating that on 29 June 2019 at 2:00 a.m.,

part of wall in one Alcon Styles Society had collapsed and the debris had fallen on the huts of labourers engaged in construction of a complex of building. The Fire Brigade and Ambulances reached the spot, 16 bodies were excavated from the debris. Several labours were injured. The FIR was lodged against the concerned developers, contractors and site supervisors. Thereafter Petitioner Nos.1 and 2, who are working in Pune Municipal Corporation as Junior Engineer and Sub-Engineer having charge of ad-hoc Deputy Engineer, have been included.

3. The learned Counsel for the Petitioners sought to contend that the Petitioners were not initially named in the FIR and thereafter they have been subsequently added. The learned Counsel submitted that only part occupation certificate was granted and final occupation certificate is still awaited. The learned Counsel contended that the entire responsibility of the event was on the developers and the structural certificate was issued by structural engineer of the developers. The learned Counsel also contended that the documentation in respect of buildings was prepared by the officers who occupied the post prior to the Petitioners.

4. The charge-sheet has been filed in this case. The allegations against the Petitioners are that the Petitioners, who were working in the building development department of the Pune Municipal

Corporation had given occupation certificate to Alcon Styles Society without checking the retaining wall and boundary wall. In the investigation, it is on record that site visits were carried out to check the boundary wall and the retaining wall. It has come on record that there were around 15 visits.

5. The issue that would arise, whether the danger to the retaining wall should have been highlighted by the engineers of the building development department. These are the issues which will have to be considered at the time of trial. It cannot be said that the Petitioners had no role whatsoever. We have to keep in mind the scope of the proceedings taken out for quashing the FIR and the charge-sheet.

6. The charge-sheet is placed on record. The statements and other material collected during the investigation show that the Petitioners had jurisdiction over the area where the incident took place. The Petitioners had power to grant sanction in respect of constructions is also not disputed. The arguments that their roles did not exist and everything was done by the predecessors would be considered at the time of trial. As regards the reports of Municipal Corporation seeking to exonerate the Petitioners are concerned, these documents are prepared by the employers of the Petitioners not binding on the investigating agency. According to us, the defence of the Petitioners is a matter of trial.

7. The factum of 16 deaths makes the offence serious enough to warrant a detailed investigation and a trial. We are not inclined to exercise the extraordinary jurisdiction.

8. Writ Petition is dismissed.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)