

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1324 OF 2020**

Mohammed Wasim Abdul Latif Shaikh and anr.Petitioners

Versus

State of MaharashtraRespondent

Mr. Ghanshyam Upadhyay along with Mr. Aakash Mishra i/b. Law Juris,
advocates for the petitioners.

Ms. M. H. Mhatre, APP for respondent No.1.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 17th MARCH, 2022.

P.C. :

1. Learned counsel for the petitioners, submitted that by seeking no objection from the earlier counsel, he has approached this Court for withdrawal of the petition with liberty to file a fresh petition.

2. Perusal of the petition shows that certain grounds are raised in the petition to submit that the investigating agency is not conducting the investigation in fair and transparent manner and it is the allegation of the petitioners that the petitioners are falsely implicated in a serious case for offences punishable under Narcotic Drugs and Psychotropic Substances Act, 1985. On this ground, prayer (a) is couched and the same reads thus:

“a) The investigation of FIR of 06/2019 of the ATS Vikhroli Police Station be transferred to CID or any other agency for impartial investigation Hon’ble Court may deem fit and proper.”

When a specific query is put to learned counsel for the petitioners, as to whether the petitioners are desirous of filing a fresh petition what would be the prayers in fresh petition, learned counsel submitted that the petitioners are desirous of raising additional grounds to the notice of this Court to submit that the petitioners are falsely implicated and the prayer would be seeking direction for constituting and forming an independent agency like Special Investigation Team and the investigation be transferred to such an independent agency.

3. Prima facie, it is our opinion, that this prayer leads to the very object which is the object in the present petition. Learned counsel for the petitioners, at this stage, submitted that the petitioners may raise certain additional prayers for redressal of their grievances. In view of the submission of learned counsel for the petitioners, though we allow the petition to be withdrawn with grant of liberty to the petitioners to file a fresh petition, our liberty should not be treated as if we have permitted the petitioners to file a petition for the same cause of action. If it is revealed

that in the fresh petition, the petitioners are only reiterating earlier prayers, this fact, may be considered by the appropriate Court, before which, the petition would be listed.

4. In view of the above, the petition is disposed of as withdrawn.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)