

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

CRIMINAL WRIT PETITION NO. 2322 OF 2023

Vishwadeep Mohan Sawant

..Petitioner

Versus

State of Maharashtra

..Respondent

Dr. Uday P. Warunjikar i/b. Sumit S. Kate for Petitioner.

Mr. Arfan Sait, APP for State/Respondent.

Mr. A. R. Jadhav, H.C. (I.O.), Kadegaon police station, Sangli, present.

Mr. S. S. Jadhav, P.N., present I.O.

CORAM : SARANG V. KOTWAL, J.

DATE : 14 DECEMBER 2023

PC :

1. Considering the urgency and also taking into account the fact that the investigating officer has come from Kadegaon, District Sangli, the matter is taken out of turn after the learned counsel mentioned the matter.

2. The petition challenges the order dated 20.09.2022 passed below Exhibit-7 by the Judicial Magistrate, First Class, Kadegaon, Sangli. The said application was made by the officers of Kadegaon police station praying that the document dated

15.06.1974 filed in R.C.S.No.212 of 2015 be given to the investigating agency for the investigation purposes.

3. The brief background of the case is that the present petitioner has filed R.C.C.No.137 of 2021 before the J.M.F.C., Kadegaon. His allegation is that the accused in connivance with each other prepared a forged document which was a partition deed dated 19.06.1976. That document was filed by the accused in R.C.S.No.107 of 2021 before the Civil Judge, J. D., Kadegaon.

4. On this complaint, the learned Magistrate, Kadegaon, vide the order dated 13.04.2022 passed in R.C.C.No.137 of 2021 directed the police of Kadegaon police station to investigate into the matter and submit the report U/s.156(3) of the Cr.P.C. Pursuant to that order the investigating agency should have registered an F.I.R. immediately, however, instead of that, without registering the F.I.R., an application at Exhibit-7 was made in the said R.C.C.No.137 of 2021 praying for handing over the copy of the partition deed dated 15.06.1974 submitted in R.C.S.No.212 of 2015. Incidentally, the learned Magistrate before whom the

R.C.C.No.137 of 2021 is pending is also seized with the R.C.S.No.212 of 2015 and R.C.S.No.107 of 2021 in his capacity as the Civil Judge, Junior Division, Kadegaon. The said application at Exhibit-7 in R.C.C.No.137 of 2021 was rejected vide the order dated 20.09.2022 on the observation that the Court had no right to handover the original document of pending suit to the investigating officer. The said order is challenged in this petition.

5. Learned APP, on instructions, states that, during pendency of this petition and after this order was passed on 20.09.2022, the police have now registered an F.I.R. pursuant to the order passed U/s.156(3) of the Cr.P.C. as referred to herein above. The F.I.R. was lodged vide the C.R.No.225 of 2023 at Kadegaon police station on 13.12.2023.

6. Learned counsel for the petitioner, as well as, learned APP submit that the investigating agency has authority to investigate the offence now, as the F.I.R. is finally registered. In this changed circumstance, the investigating officer can take all the steps to collect evidence in this case. Therefore, learned counsel

for the petitioner does not press this petition at this stage.

7. Learned APP, on instructions of the present investigating officer states that, the investigating officer will take steps in accordance with law to collect the two documents and if necessary will prefer appropriate application before the appropriate Court.

8. The investigating agency is free to take such steps. If such applications are preferred before the Court conducting the aforesaid civil suits, the said application shall be decided afresh in accordance with law, without being influenced by the earlier order dated 20.09.2022 which is challenged in this petition.

9. With these observations, the petition is disposed of as not pressed.

(SARANG V. KOTWAL, J.)