

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 676 OF 2022

Anis Ahmed Taufiq Chaudhary

.....Petitioner

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Pradeep Havnur a/w Adv. Sanjay Kharat a/w Adv. Prajakta Jagtap for the Petitioner.

Ms. M.H. Mhatre APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**
DATE : 9th JANUARY, 2023.

P.C.:-

By the present Petition, the Petitioner is seeking direction to transfer the investigation of crime bearing No.222 of 2018 dated 10th August, 2018 registered with Deonar Police Station, Mumbai under Sections 142, 143, 147, 149, 504, 506(2), 452 read with Section 120-B of the Indian Penal Code (for short, "*the IPC*"). Subsequently, the police have also added Section 395 of the IPC to the said Crime.

2) Heard Mr. Havnur, learned counsel for the Petitioner and Ms. Mhatre, learned APP. Perused charge-sheet annexed to the Petition and Affidavit dated 18th June, 2022 of Mr. Ravindra Adane, the Investigating Officer of the present crime.

3) Mr. Havnur, learned Advocate for the Petitioner submitted that, the Petitioner had filed an Application with the then Joint Commissioner of Police, Law and Order, Mumbai, regarding his grievance of non-recording of his statement in the present crime however the same was not attended to. He drew our attention to the Judgments and Decrees passed by the learned Judge of the City Civil Court, Greater Mumbai in S.C. Suit No.2803 of 2018 and S.C. Suit No.2084 of 2018 passed in favour of the Petitioner and his brother Safique Ahmed Toufeeque Choudhary and submitted that, though the City Civil Court, Mumbai has declared and decreed that, the Suit property belongs to the Petitioner and his brother, the Defendants in the said Suits in collusion with the police filed a police case against him on 10th August, 2018 and detained him in a crime bearing No. MECR No.2 of 2018. That, the Petitioner was arrested in the said case on 1st August, 2018 and was released on bail on 16th August, 2018. He submitted that, the accused persons in the present crime i.e. C.R. No.222 of 2018 committed the act on 10th August, 2018 when the Petitioner was in jail. He submitted that, his grievance that his statement was not recorded, has remained unattended and it is one of the reasons that the investigation of the present crime be

transferred to some other investigating agency. That, the Investigating Officer of the present crime had not arrested all the accused persons but has selectively indicted only few accused persons in the present crime and this is also the ground to transfer of investigation. He therefore prayed that, further investigation of the present crime may be directed to be transferred to any other investigating agency.

4) Perusal of record indicates that, the police after conducting investigation of the present crime have submitted charge-sheet on 21st September, 2020 and supplementary charge-sheet on 2nd March, 2022. In his affidavit and in particular para No.8 dated 18th June, 2022, Mr. Ravindra Adane has categorically stated that, after the Petitioner was released from Arthar Road Prison, Mumbai his statement was recorded by the erstwhile investigating police officer of Deonar Police Station on 3rd September, 2018 and thereafter Section 395 of the IPC came to be added to the present crime.

5) It is thus clear that, the statement of the Petitioner has been duly recorded by the Police in the present crime. At this stage Mr. Havnur, learned counsel submitted that, the said statement as recorded is not as per the narration given by the Petitioner and it lacks certain material particulars in it.

6) The statement of the Investigating Officer on oath inspires more confidence in the mind of this Court than the bold statement made by

the Petitioner that the said statement so recorded was not as per his narration. It clearly appears to us that, the stand now adopted by the Petitioner is an afterthought, as he wants to improve his case.

7) Perusal of entire charge-sheet indicates that the police have investigated the said crime properly and we are of the opinion that, the transfer of investigation of the present crime to any other investigating agency is not necessary.

8) In view of above, Petition is dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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MASHALKAR
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