

c) issue a writ of mandamus or any other writ or direction to respondent No.4 to initiate the prosecution against an erring police officer for failing to comply and showing disrespect to the guidelines of the Apex Court and advisory circular issued by the Government of India.”

3. Learned counsel for the petitioner submits that the petitioner had filed a complaint dated 18th June 2022, which is at Exhibit – 'A' page 24 of the petition with the Senior Inspector of Police, N. M. Joshi Marg Police Station, Mumbai. It is submitted that the said complaint is filed against one Nayan Gandhi, alleging an offence punishable under Section 467 of the Indian Penal Code, for forging signature of late Mrs. Jayshree Narayan Darekar and for preparing her *will* and obtaining probate from this Court. It is the case of the petitioner that she is the adopted daughter of late Narayan Sadu Darekar and late Jayshree Narayan Darekar. The petitioner has stated in her complaint that after her adoption, her marriage was performed with Mr. Sanjay Narkar. She has further stated that after the demise of her mother late Jayshree Narayan Darekar, she was in peaceful possession and was occupying Room No.17, Ganeshkrupa Co-operative Housing Society Ltd., Plot No.161, Charkop, Kandivali

(West), Mumbai. She has further stated in the complaint that in February 2014, she learnt that Mr. Nayan Gandhi was trying to dispose of the property of her mother late Jayshree Darekar as an Administrator by obtaining an ex-parte order of probate from this Court. It is stated that on enquiry, she learnt that Nayan Gandhi had prepared a *will* of her mother by forging her mother's signature, pursuant to which, she filed a Miscellaneous Petition No.122 of 2015 i.e. for revocation of the probate, which is pending in this Court. According to the petitioner, after her adoption she was residing with her late mother and father and occupying the premises as stated aforesaid. She has further stated that she is the only legal heir of the said flat and that the said *will* of her mother late Jayshree Darekar was prepared dishonestly and fraudently by Nayan Gandhi and as such he has committed an offence under Section 467 of the IPC. It is stated that in view of the aforesaid, an FIR be registered as against Nayan Gandhi, under Section 467 and other sections of the IPC and to initiate investigation. The said complaint is at Exhibit 'A' page 24 of the petition. Below the said complaint, are enclosed the other

documents i.e. (i) Certificate issued by the handwriting expert (ii) Adoption Deed dated 9th August 1994 and (iii) Photographs.

4. On 7th July 2023 we had noted in our order, that no doubt, there was some delay by the police, in deciding the complaint, however, the said delay appears to have occasioned because of the enquiry being carried out by two police stations. The learned APP had submitted that currently the enquiry is being carried out by the N. M. Joshi Marg Police Station, Mumbai and that the probate document is also being looked into. She submitted that the police would inform the petitioner of the decision taken on her complaint, as expeditiously as possible and in any event within two weeks from the said date. Accepting the statement of the learned APP, the matter was stood over to 21st July 2023 i.e. today.

5. The grievance of the learned counsel of the petitioner is that the police ought to have registered an FIR, pursuant to the petitioner's complaint, since the same discloses the commission of a

cognizable offence, in terms of the Judgment of the Apex Court in *Lalita Kumari v/s Government of U.P. & Others*¹. He submitted that the police had failed to take action against Nayan Gandhi by not registering an FIR, despite the petitioner's complaint disclosing the commission of a cognizable offence against Nayan Gandhi under Section 467 of the IPC, since Nayan Gandhi had forged the petitioner's mother's *will*. Learned counsel for the petitioner has also tendered his written submissions. The same is taken on record.

6. Learned APP has submitted a report of PSI – Sagar Shirke, attached to N. M. Joshi Marg Police Station, Mumbai dated 19th July 2023. The said report tendered by the learned APP, is taken on record. In the said report, it is stated that on receiving the complaint which is at Exhibit – 'A' on page 24 of the petition, the police have conducted an enquiry. It is stated that the statements of the concerned witnesses before whom the *will* was executed were recorded and from the said statements, it appears that the said *will* was signed by late Jayshree Darekar and as such there is no substance in the allegation

1 AIR 2012 SC 1515

made by the petitioner that the said *will* has been forged.

7. It is pertinent to note, that probate proceeding was filed in the trial Court and that the *will* has been probated and that the petitioner has filed for revocation of the said order passed by this Court. It also appears that the said *will* of Jayshree Darekar, is a registered *will*. As far as the adoption deed is concerned, it appears that the same is not a registered document and that the said adoption deed has been challenged by Nayan Gandhi before the City Civil Court.

8. Considering the aforesaid, we do not find any merit in the petition seeking registration of the FIR. The petition stands dismissed and is accordingly disposed of.

GAURI GODSE, J.

REVATI MOHITE DERE, J.