

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1291 OF 2022**

Zakir Ahmad Tadv

.....Petitioner

Vs.

State Of Maharashtra

.....Respondent

Mr. J.P. Mishra i/by J.P. Mishra & Associate for the Petitioner.

Mr. S.S. Hulke APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 7th FEBRUARY, 2023.****P.C.:-**

By the present Petition, the Petitioner is seeking re-investigation of crime bearing C.R. No.827 of 2021 registered with Dharavi Police Station, Mumbai, wherein he is an accused.

2) It is the settled position of law and as has been enunciated by a catena of decisions by the Hon'ble Supreme Court that, accused has no right to have any say in the process of investigation. The accused has no right to have any say as regards the manner and method of investigation. It is trite position of law that, the accused persons do not have any say as regards the manner and method of appointment of an investigation agency. Accused persons cannot choose as to which investigation agency should investigate the alleged offence committed by them. Reliance is placed on

the decisions of the Hon'ble Supreme Court namely (i) *Union of India Vs. W.N.Chadha* reported in *AIR 1993 SC 1082*; (ii) *Narmadabai Vs. State of Gujrat*, reported in *2011 ALL SCR 1339 = AIR 2011 SC 1804* and; (iii) *Sanjiv Rajendra Bhatt Vs. Union of India & Ors.* reported in *(2016) 1 SCC 1*.

3) Perusal of Petition and pleadings of the learned Advocate for the Petitioner clearly reveals that, the Petitioner intends to establish his defence in a criminal trial by way of present Petition under Article 226 of the Constitution of India, which is also not permissible under the law. It is the settled position of law that, the defence of accused cannot be tested and/or adjudicated in a Petition under Article 226 of the Constitution of India.

4) According to us, Petition is de hors of merits and is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date: 2023.02.13
18:34:27 +0530