



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3935 OF 2021

Rashmikanth Maganlal Gangar

..... Petitioner

V/s.

The State of Maharashtra & Ors.

..... Respondents

Mr. Mahesh Vishwakarma a/w. Ms. Naina Sharma i/b Vishwakarma & Associates for the Petitioner.

Mr. Ajay Patil, APP for the Respondent-State.

CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.

DATE : 6th OCTOBER, 2023.

P.C.:-

1) Petitioner has filed present Petition under Article 226 of the Constitution of India for the following reliefs:

i) *To pass an appropriate direction/writ in the nature of mandamus or any other Writ and call the entire records and proceedings in the matter of FIR No.52 of 2021 dated 23rd February 2021 for the offence's punishable u/s.34 r/w. 323, 448, 452, 504, 506, 143, 147, 149 of Indian Penal Code, 1860 and after verifying the authenticity, veracity and propriety of the same this Hon'ble Court may be pleased to quash and set aside the FIR No.51 of 2021 dated 23rd February 2021 registered at the Rabale MIDC Police Station filed below Exhibit-"P" and all other proceedings emanating therefrom;*

ii) *To issue a Writ of Mandamus, Certiorari or any other Writ of appropriate nature and to pass an order or direction calling for the records and proceedings in the Petitioner's Complaint dated 16.10.2020 filed below Exhibit-"H" and the closure report dated 03.01.2021 issued by Respondent No.3 filed below Exhibit-"I" and after testing the veracity and legality of the contents therein, set aside the said closure report dated 03.01.2021 holding the same to be arbitrary and illegal.*

iii) *To issue a Writ of Mandamus, Certiorari or any other Writ of appropriate nature and pass an order or direction, calling for the records and progress reports in the Petitioner's complaint dated 27th April, 2021 to the Respondent No.2 against Respondents No.3 and 4 and after considering the same, issue appropriate directions to the Respondents No.1 and 2 for conducting an enquiry for their illegal acts and submitting a report before this Hon'ble Court;*

2) As far as prayer clause (i) is concerned, police have already submitted charge-sheet. Petitioner therefore is having substantive alternate statutory remedy under the provisions of Cr.P.C. before trial Court.

In view thereof prayer clause (i) of Petition for quashing of First Information Report does not survive.

3) As far as prayer clause (ii) is concerned, record indicates that the dispute stated in the Petitioner's Complaint appears to be of civil nature.

Petitioner is therefore having remedy to file private complaint

before learned Magistrate having jurisdiction and as may be permissible in law.

4) As far as prayer clause (iii) is concerned, the Petitioner is having statutory remedy under the provisions of Section 22(p) of the Maharashtra Police Act before the Police Complaint Authority.

5) By reserving the aforementioned remedies in favour of Petitioner, Petition is disposed off.

(SHARMILA U. DESHMUKH, J.)

(A. S. GADKARI, J.)