

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

CRIMINAL WRIT PETITION NO.7 OF 2019

Vijaylakshmi Vijay Kumar Nadar

... Petitioner

Versus

The State of Maharashtra
Through the Senior Inspector of Police
Amboli Police Station, Andheri (West),
Mumbai and Ors.

...Respondents

Mr. D. R. Singh and Mr. S. H. Singh i/b. Kharwar & Associate, for the
Petitioner.

Ms P. P. Shinde, A.P.P. for the Respondent – State.

Mr. Rajiv Singh a/w. Mr. Hrishikesh Mundargi, Ms. Swarali Joglekar
i/b. M/s. Nair Vengurlekar & Co., for Respondent No.2.

Mr. Niranjana S. Mundargi a/w. Mr. Mutahar_Khan, Mr. Sarthak Shetty
i/b. Mr. Shivam Sinh Deshmukh and Mr. Aditya Sharma, for
Respondent Nos.3 to 5.

PSI, Sunildatta Gomare, Amboli Police Station, Mumbai, Pairavi
Officer, present.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 23rd JANUARY 2024

¹ This order is corrected pursuant to the order of speaking to the minutes dated 6th February 2024.

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner seeks the following substantive reliefs:

a) That this Hon'ble Court be pleased to issue a writ of mandamus or any other writ order or direction in the nature of mandamus directing Amboli Police Station to Register FIR against Respondent No. 2 to 9 for committing offences punishable Under Section.

b) That this Hon'ble Court be pleased to issue a writ of mandamus or any other writ or direction in the nature of mandamus thereby directing the Respondent No. 1 to transfer the investigation of above matter from Amboli Police Station to any other Police Station.

3. Perused the papers. According to the petitioner, the incident is alleged to have taken place on 12th May 2017. Admittedly, a letter was addressed by the petitioner complaining as against certain persons to the Amboli Police Station on 16th August 2017, after about three

months, with respect to the said incident dated 12th May 2017. It is not in dispute that the aforesaid petition was filed on 12th December 2018 seeking the aforesaid reliefs. It is not in dispute that prior to the filing of this petition, the police after conducting a preliminary inquiry, had closed the petitioner's compliant dated 16th August 2017. The same has also been communicated to the petitioner vide letter dated 29th October 2018.

4. Learned Counsel for the Respondents state that the Petitioner has not approached this Court with clean hands, and that the petitioner has suppressed several orders passed by this Court and confirmed by the Apex Court in arbitration proceedings. They submit that against the petitioner's husband, there are several orders. They submit that, in fact even in the present petition, the petitioner has suppressed the report of the Court Commissioner dated 12th May 2017, by which no relief was granted to him. They submit that the petition should not only be dismissed, but the petitioner should be saddled with heavy costs, inasmuch as the petitioner has not even spared the Advocate appearing for the Society.

5. Learned Counsel for the petitioner refutes all the aforesaid allegations made by the learned Counsel for the respondents. Be that as it may, we do not wish to go into the same.

6. Suffice to state that since the complaint has been 'filed', the question of directing the Amboli Police Station to register an FIR as against Respondent Nos. 2 to 9 does not arise, and consequently transfer of investigation.

7. Considering the aforesaid, we do not find merit in the petition.

8. Needless to state, that the petitioner is at liberty to take appropriate steps as maintainable in law, since his complaint to the Amboli Police Station has been closed by them.

9. The writ petition stands disposed of.

10. All concerned to act on the authenticated copy of this order.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.