

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 518 OF 2024

Lalit Shyam Tekchandani ...Petitioner

Versus

Senior Police Inspector H-1,
E.O.W., Mumbai and Ors. ...Respondents

WITH
INTERIM APPLICATION (ST.) NO.4692 OF 2024
IN
CRIMINAL WRIT PETITION NO. 518 OF 2024

Clan City Welfare Association ...Applicant

IN THE MATTER BETWEEN:

Lalit Shyam Tekchandani ...Petitioner

Versus

Senior Police Inspector H-1,
E.O.W., Mumbai and Ors. ...Respondents

WITH
INTERIM APPLICATION (St.) NO.4806 OF 2024
IN
CRIMINAL WRIT PETITION NO. 518 OF 2024

Narendrakumar Bhalla ...Applicant/
Intervenor

IN THE MATTER BETWEEN:

Lalit Shyam Tekchandani ...Petitioner

Versus

Senior Police Inspector H-1,
E.O.W., Mumbai and Ors. ...Respondents

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Mr. Taraq K. Sayed, Advocate for the Petitioner.

Mr. Nikhil Wable a/w Mr. Mihir Kakade, Ms. Parita M., Ms. Prachi Thakkar i/by Jayakar & Partners for the Applicant in I. A.(St.) No.4806 of 2024.

Mr. Subir Sarkar a/w Ms. Akanksha Agrawal for Respondent/first informant/complainant in I.A. (St.) No. 4692 of 2024.

Mrs. M.M. Deshmukh Additional P.P. for the Respondent - State.

Mr. Sunil Shinde (PI.) Talaja Police Station, Navi Mumbai, Central Crime Branch, present.

Mr. Vinayak Desure (A.PI.) Unit-1, Housing -1, EOW, Mumbai, present.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 04th MARCH 2024.

P.C.:

1. The Petitioner seeks following prayers:

“ (a) This Hon’ble Court may be pleased to exercise its inherent powers under Section 482 of the Code of Criminal Procedure, 1973 and be pleased to quash F.I.R. No.18 of 2024 dated 15.01.2024 registered with Talaja Police Station, Navi Mumbai, Maharashtra.

(b) This Hon’ble Court in exercise of its extraordinary jurisdiction bestowed upon by the Constitution of India under Article 226 of the Constitution of India, this Hon’ble Court may in the alternative be pleased to Issue a Writ in the nature of Certiorari directing the Respondents to transfer and club all F.I.R.’s including the impugned F.I.R. and any other F.I.R./Criminal Complainant filed or inquiry or investigation instituted or to be instituted in the future in relation to the Petitioner arising out of the same transaction i.e., Development of Hex City/Clan City Project, at Rohinjan, Talaja, Navi Mumbai, with F.I.R. No.8 of 2024 registered with the E.O.W. Unit-1.

(c) This Hon'ble Court may further be pleased to issue a Writ of Mandamus or any other writ of appropriate nature to the effect that no cognizance of any complaint would be taken by any court nor any F.I.R. registered by the police in relation to or arising out of the same transaction i.e. Development Hex City Clan City Project, at Rohinjan, Talaja, Navi Mumbai.

(d) Allow the Petitioner to amend the present Writ Petition in the event that any other F.I.R. is registered on the same cause of action in future with respect to the various F.I.R.'s /Criminal complaints filed against the petitioner in different police stations in the State of Maharashtra as well as in different States in relation to the same transaction i.e., Development of Hex City/Clan City Project, At Rohinjan, Talaja, Navi Mumbai."

2. The Petitioner was arrested on 30.01.2024 in connection with First Information Report (for short "FIR") No.19 of 2024 registered with Chembur Police Station, Mumbai for offences punishable under Sections 406 & 420 r/w Section 34 of Indian Penal Code (for short "IPC"), Section 4 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction Sale. Management and Transfer Act 1963 (for short "MOFA Act") and Sections 3 & 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short "MPID Act"). The FIR was registered on 15.01.2024 at 23.16 hrs.

3. Another FIR was registered on 15.01.2024 at 23.37 hrs. with Talaja Police Station, Navi Mumbai Vide C.R. No.18 of 2024 for offences punishable under Sections 406 & 420 of IPC and Sections 13 & 3 of the MOFA Act.

4. Learned Advocate Mr.Sayed appearing for Petitioner submitted that having registered the FIR with Chembur Police Station, Mumbai which was investigated by E.O.W. vide C.R. No.19 of 2024 on 15.01.2024 in which the Petitioner was arrested, there was no necessity of registering second FIR on the same day with Taloja Police Station, Navi Mumbai vide C.R. No.18 of 2024. The cause of action for both the FIRs is same. The Petitioner was arrested and continued to be in custody in C.R. No.19 of 2024 registered with Chembur Police Station. The second FIR is not maintainable in law and deserves to be quashed and set aside. It is further submitted that the background of this transaction needs to be taken into consideration. The constructions could not be completed on account of circumstances beyond the control of the Petitioner. The Petitioner was the director of accused-company and he had resigned in 2016. He ought not to have been impleaded as accused in this proceedings. The bank accounts were frozen. It is not the case of the prosecution that the flats would not be given to the purchasers. The offence under Section 420 or any other offences invoked in these FIRs are not made out. Both the FIRs were registered on the same day. Subsequently, third FIR has been registered. All the FIRs required to be investigated by one agency. The subsequent FIR is required to be quashed.

5. Mr. Sayed has relied upon the following decisions:

- i) **Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation¹.**
- ii) **Amish Devgan Vs. Union of India and Others².**

6. Learned A.P.P submitted that the offence is of serious nature. The buildings were to be constructed at Taloja and flat premises were to be handed over to various investors/purchasers. There is no illegality in registration of the FIR at Taloja Police Station. Both the FIRs were registered on the same day on two different complaints with two different aggrieved persons. The subject matter of the FIR registered with Taloja Police Station includes about 1,712 flat purchasers. About 257 persons have come forward and their statements have been recorded. The scheme of constructions, investments and sale of the flats was of 2010. However, the possession of the premises was not given to the purchasers and the promises made to various aggrieved persons were not fulfilled. The loss of about 423 Crores was caused to the purchasers/investors. The deadline to handover the possession was in-2017. The Investors have parted 95% amount. The amount received from the investors was diverted and used for other

¹ (2013) 6 SCC 348.

² (2021) 1 SCC 1.

projects. The Petitioner had purchased the properties worth Rs.7.12 Crores. The Petitioner was involved in purchase of land worth Rs.9 Crores and invested the amount of Rs.5 Crores. The witnesses are from different places. The third FIR referred to by the learned Advocate for the Petitioner is in respect to different transaction. The first informants in both the cases are different. The jurisdiction defers, hence, there is no infirmity in registering the FIRs at different Police Station.

7. The intervention applications are preferred by Clan City Welfare Association and one Narendrakumar Bhalla. The Advocates appearing for the Intervenors and the informant had vehemently opposed the relief sought by the Petitioner. It is submitted that the huge loss is caused to the investors. There is no legal bar for registering the FIRs at two Police Station. Although the Petitioner claimed to have resigned as a director, he had participated in the activities even after the date of purported resignation. The flat owners/purchasers have formed an association to put-forth their grievances and sought to intervene in this proceedings. There was a breach of agreement. One of the intervenor is the land owner. The injunction was from creating third party rights. The Petitioner had mortgaged the flats in 2018.

The brochure provided by the company gave an impression that M.M.R.D.A. is the party in the project by printing the logo of M.M.R.D.A. to mislead the investors.

8. In rejoinder, Mr. Sayed, Learned Advocate for the Petitioner submitted that there was no misleading of any nature. The participation of M.M.R.D.A. is reflected in the documents. The buildings were constructed. It is the case of delayed possession. There was no intention to cheat.

9. It is pertinent to note that the offence is of serious nature. There are several aggrieved persons. One of them has lodged the FIR at Chembur Police Station, Mumbai and on the same day the FIR has been registered at Taloja Police Station, Navi Mumbai. Learned A.P.P. has pointed out that there are about 1712 flat buyers, who are the aggrieved persons in respect to the FIR registered with Taloja Police Station. The investigation is in progress. The project is situated at Taloja. The Petitioner has prayed for quashing the FIR registered at Taloja Police Station being the second FIR. It is relevant to note that the aggrieved persons could be at Taloja or at Chembur. The huge amount is involved. The grievance of the aggrieved persons/witnesses is that substantial amount was parted towards the transaction. The transactions are distinct. The

aggrieved persons are different. The relief sought in these Petitions cannot be granted.

10. The decision relied upon by the learned counsel for the Petitioner cannot be applied in the present case. In the case of *Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation* (supra), the second FIR may be quashed and the charge-sheet filed in the said FIR may be treated as supplementary charge-sheet in the first FIR. The Apex Court analysed the factual matrix of the said case. It was observed in the light of factual details since the entire larger conspiracy is covered in the first FIR and the investigation of the said FIR, after investigating the encounter therein the CBI recorded findings in the supplementary charge-sheet that the encounter was fake.

11. In the case of ***Amish Devgan Vs. Union of India and Others*** (supra) the apex Court had observed that the contention of the Petitioner therein that criminal proceedings arising from the impugned FIRs ought to be quashed as those FIRs were registered in places where no cause of action arose cannot be accepted. It was observed that Section 179 Cr.P.C. provides that an offence is triable at the place where an act is done or its consequences ensue. The debate shows hosted by the Petitioner was broadcast

on widely view television network. The audience including the complainant were located in different parts of India and were affected by the utterances of the Petitioner. Thus the consequences of the words of the Petitioner therein ensued in different places including the place of registration of FIR. Section 156(1) of Cr.P.C. provides that any officer in-charge of Police Station may investigate any cognizable case which a court having jurisdiction over the local limits of such station would have power to inquire into or try. The FIRs do not suffer from jurisdictional defect. It was also observed that there can be no second FIR, where the information concerns, the same cognizable offences alleged in the first FIR or the same occurrence or incident which gives rise to one or more cognizable offences. Since the investigation covers within its ambit not just the alleged cognizable offence, but also any other connected offence that may be found to have been committed. It is pertinent to note that in the said case the Petitioner had hosted and anchored a debate on the enactment, which while excluding Ayodhya, prohibits conversion and provides for maintenance of the religious character of places of worship as it existed on 15.08.1947. Post the telecast, several FIRs were registered concerning the episode against the Petitioner in different states for similar offences. Thus, the observations made therein were made by the

Hon'ble Supreme Court in the context of factual matrix of the case.

12. Hence, no case is made out to grant the relief sought in the Petition. The Petition is devoid of merits and deserves to be dismissed.

ORDER

- i) Criminal Writ Petition No.518 of 2024 is dismissed and disposed off.
- ii) In view of disposal of Writ Petition, both Interim Applications do not survive and stand disposed off accordingly.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)