

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

CRIMINAL WRIT PETITION NO.2990 OF 2023

Muhammad Jameel Merchant

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Sanjeev P. Kadam a/w Mr. Prashant Raul and Mr. B. V. Bukhari i/b
Mr. Mujahid Ansari, for the Petitioner.

Mr. Kaushik Mhatre, Spl. P.P. a/w Mr. R. M. Pethe, A.P.P. for the Respondents - State.

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

DATE : 22nd JANUARY 2024

P.C. :

1. By this petition, the petitioner has sought the following substantive reliefs:-

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b. To issue a Writ in the nature of Mandamus or any other appropriate Writ Or order directing the Respondents to preserve / save all the recordings of the CCTV footages (both video & audio recording) of the cameras installed at the Malwani Police Station from the period 10:30 p.m. on 30.03.2023 to 10:00 a.m. on 31.3.2023.

c. To direct the Respondents to provide /give CCCTV footages (both audio & video) from the period 10:30 p.m. on 30.03.2023 to 10:00 a.m. on 31.3.2023 as till date no CCTV

footages of Police Station, inside senior cabin, outside premises and others 21 installed camera has been given to the Petitioner even after RTI Application, Appeal has been made to the Police.”

2. Vide order dated 9th August 2023, having heard the learned counsel for the petitioner, we in paras 4 to 6 of the aforesaid order, had observed as under:-

“4. We do not prima facie, see any impediment in directing the police to preserve the said recording as sought. Accordingly, we direct the DCP (Zone XI) to retrieve the recording of the CCTV footages (both video and audio) from the cameras installed in Malvani Police Station, from the period 10.30 pm of 30th March 2023 to 10 am of 31st March 2023. Same to be done forthwith and in any event, latest by tomorrow, 10th August 2023.

5. Learned APP to forthwith inform the DCP (Zone XI) of the order passed today so as to enable him to comply with the same.

6. The CCTV footages (both video and audio) shall be kept by the DCP(Zone XI) in his safe custody until further orders.”

3. Pursuant thereto, the concerned DCP, has retrieved the CCTV footages.

4. Learned Special Public Prosecutor has accordingly filed an affidavit-in-reply of the DCP (Zone XI) Mr. Ajay Kumar Bansal. It appears from the said affidavit, that the concerned CCTV footages, as directed vide order dated 9th August 2023, have been collected.

5. To the said affidavit-in-reply, is annexed the panchanama/Section 65B Certificate, which discloses that some CCTV footages, were in a working condition and some were not in a working condition.

6. Thus, prayer clause 'b' stands redressed, inasmuch as, the CCTV footages, as directed have been collected by the DCP (Zone XI). As far as prayer clause 'c' is concerned, learned Special Public Prosecutor submits that the said relief can be sought by the petitioner before the appropriate forum.

7. In view of the aforesaid statement made by the learned Special Public Prosecutor, Mr. Kadam, learned counsel for the

petitioner does not press for prayer clause 'c'. He, however, seeks liberty to file an appropriate proceeding/application, before the appropriate Court/forum and seek the CCTV footage, so collected by the DCP (Zone XI).

8. As far as non-availability of the audio of the CCTV footages, as reflected in the panchanama/Section 65B Certificate is concerned, learned counsel for the petitioner seeks liberty to file an independent substantive petition. Mr. Kadam submits that the same is in breach of the directions given by the Apex Court.

9. Petition is accordingly disposed of on the aforesaid terms with liberty as prayed.

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

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.