

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 648 OF 2024

Suvendu Ghosh S/o. Kapil Chandra Ghosh

and Anr.

... Petitioners

Versus

The State of Maharashtra and another

... Respondents

.....

Mr. Aabad Ponda a/w. Mr. Niranjan Mundargi a/w. Sourjya Das i/b. Chittesh Dalmia for the Petitioners.

Mr. Anand S. Shalgaonkar, APP for the State.

Mr. Benimadhav H. Goswami, for Respondent Nos.2 and 3.

API Yogesh Kakad, Rabodi Police Station, Thane City.

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

DATED : 26th FEBRUARY 2024

P.C. :-

1. The Petitioners are challenging First Information Report dated 30th November, 2023 registered with Rabodi Police Station for the offences under Sections 408, 409, 417, 420, 467, 468, 107 and 120-B of the Indian Penal Code.

2. Learned Advocate for the Petitioners submitted that the Complainant filed Commercial Suits for recovery of money being Commercial Suit Nos. 15 of 2023 and 16 of 2023. The suit is referred for mediation as required under procedure for commercial suit and the process of mediation is pending. The dispute is clearly of a civil nature. The amount claimed in the suit and in the First Information Report is

same. The Petitioners are willing to cooperate with the investigation. They are residents of Kolkata.

3. Learned APP submitted that the investigation is in progress. The custodial interrogation of the Petitioners is necessary. Petitioner No.1 is involved in preparation of false invoices.

4. Learned Advocate Mr. Goswami submitted that he has instructions to appear for Respondent Nos.2 and 3. He has not yet served with the proceedings. He submitted that although suits were filed, during the course of investigation, it was revealed that accused has prepared false invoices.

5. It is apparent from record that while the suits lodged against Petitioner are pending, the impugned FIR was registered. The investigation is in progress. Therefore, it would be appropriate to proceed with the investigation. However, presently the Petitioners can be directed to remain present in the office of the Investigating Officer and cooperate with the investigation.

6. Issue notice to Respondent Nos.2 and 3, returnable on 27th March, 2024. Mr. Goswami waives notice. Till the date of hearing, no coercive action shall be taken against the Petitioners. They shall appear before the Investigating Officer on 4th March, 2024 to 7th March, 2024 between 11.00 am to 1.00 pm.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)