

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 712 OF 2024**

Ashwajit Anilkumar Gaikwad

.....Petitioner

Vs.

State Of Maharashtra & Anr.

.....Respondents

WITH**CRIMINAL WRIT PETITION NO. 713 OF 2024**

Priya Umendra Singh

.....Petitioner

Vs.

State Of Maharashtra & Anr.

.....Respondents

Mr. Niranjan Mundargi, a/w Ms. Shweta Rathod, Adv. Keral Mehta and Ms. Bharti Bhatt i/by Elixir Legal Services for the Petitioner in WP No.712 of 2024.

Mr. Niranjan Mundargi, a/w Ms. Shweta Rathod, Adv. Keral Mehta and Adv. Tahira Siddique i/by Elixir Legal Services for the Respondent Nos. 4 to 6 in WP No.713 of 2024.

Ms. Mayuri Hatle a/w. Adv. Mandar Surve for the Petitioner in WP No.713 of 2024 and for the Respondent No.2 in WP No.712 of 2024.

Mr. Vinod Chate APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 14th JUNE, 2024.

P.C.:-

- 1) Record indicates that, on 22nd April, 2024, the learned APP on instructions had made a statement that, the investigation of the crime is in

progress and attempts were made to record further statement of the complainant.

2) Today, Ms. Hatle, learned Advocate for the Respondent No.2 in WP No. 712 of 2024 made a grievance that, the Respondent No.2 is not called for recording her statement since then and it is only on 5th June, 2024, the Advocate for the Respondent No.2 made a call to the Investigating Officer requesting him to record further statement of the Respondent No.2.

3) Upon a query raised by this Court, learned APP on instructions from A.P.I. Mr. Vishal Rumane, attached to Kasarvadawali Police Station submitted that, the Investigating Officer gave a phone call on 11th June, 2023 to the Respondent No.2 and in turn, the Advocate for the Respondent No.2 had given a call to him therefore he had requested the Respondent No.2 to remain present before him on 12th June, 2024.

4) It be noted here that, as a matter of fact till date a supplementary/additional statement of the Respondent No.2/victim of the crime is not recorded by the Investigating Officer. We are startled after reading case diary No.19 dated 4th June, 2024 wherein it is stated that, as a report is to be sent to the Motor Accident Claim Tribunal, the Aadhar Card, Bank Pass book and other documents are necessary for it from the Respondent No.2. We are unable to accept such a recording in a case diary. According to us, the Investigating Officer, A.P.I. Mr. Vishal Rumane is

investigating a crime and has not been appointed to file a claim for damages or compensation before the M.A.C.T..

Prima facie we find that, the Investigating Officer is not well conversant with the provisions of Cr.P.C. which is the law of the land.

5) It shakes our conscience after perusing the case diary and record of investigation as the victim in a crime has to plead repeatedly before the Investigating Officer for recording her statement. It is an admitted fact on record that, though the statement of learned APP was recorded on 22nd April, 2024, till date supplementary/additional statement of informant/victim is not recorded.

6) In view thereof, we direct the Joint Commissioner of Police, (crimes) Thane, to file his personal Affidavit in response to the Petition. We expect from Joint Commissioner of Police, (Crimes) Thane, to read the entire Petition, peruse all the record of investigation, peruse the case diary and thereafter only to file an Affidavit to the Petition. We further direct the Joint Commissioner of Police, (Crimes) Thane, not to delegate his powers to any sub-ordinate Officer.

6.1) This be done on or before 27th June, 2024.

7) We place it on record that, the case diary as maintained by the Investigating Officer, A.P.I.Mr. Vishal Rumane is in loose sheets and we have noticed that, there is no consecutive pagination in the case diary, as usual in contravention of Section 172 (1-B) of the Cr.P.C. and the directions issued

by the Office of the Director General of Police from time to time and in utter contravention of the last Circular issued by the office of D.G.P.M.S. dated 12th February, 2024. There is much more to say about the investigation being carried out however, we reserve our comments to be offered after perusing the Affidavit of Joint Commissioner of Police, Thane in that behalf.

8) Learned APP appearing in these Petitions is directed to communicate this Order to the Joint Commissioner of Police, (Crimes) Thane expeditiously.

9) Stand over to 28th June, 2024.

(DR. NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date: 2024.06.19
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