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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6532 OF 2024

Laxman Keru Dalvai

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Ashok M. Saraogi for the Petitioner.

Mr. H.S.Venegavkar, P.P. a/w Mrs. Kranti T. Hiwrale, A.P.P for the Respondent-State.

Mr. Vijay Bhoje, Deputy Regional Transport Officer, and Mr. Vijay Shelake, ARTO, Mumbai (E), present.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 20th JANUARY, 2025

P.C. :

1. By this petition, the petitioner seeks a direction to the Commissioner of Police, Mumbai, to look into the petitioner's grievance made vide letter dated 19th December, 2022 and take cognizance of the same. The said letter is at page 64 of the petition. The said letter dated 19th December, 2022 is addressed by the

petitioner – Laxman Dalwai and one Nandakini Laxman Dalwai to the Inspector In-charge, Nehru Nagar Police Station, Kurla, Mumbai, alleging fraud played by the RTO Authority, Patpedhi and the Advocate concerned. According to the learned Counsel for the petitioner, the petitioner's vehicle i.e. a luxury bus was sold by the RTO Authority in connivance with the Patpedhi and the Advocate.

2. We had asked Mr. Venegavkar, learned P.P., to take instructions. Pursuant thereto, Mr. Venegavkar tendered an affidavit of the RTO – Shri. Ravindra Gaikwad dated 31st July, 2024. In the said affidavit, in para 10, it is stated that the RTO had followed all legal procedures before auctioning the petitioner's vehicle. It is further stated that despite the same, the respondent No.3, vide a letter dated 26th July, 2024, requested the higher authority i.e. Transport Commissioner, Maharashtra State, Mumbai, to appoint a committee to look into the matter. Accordingly, the Transport Commissioner, Maharashtra State, Mumbai appointed a Committee on 30th July, 2024 to carry out an inquiry pertaining to the petitioner's grievance.

3. Mr. Venegavkar, learned P.P, states that pursuant to the said order dated 30th July, 2024, issued by the Transport Commissioner, an inquiry was conducted and that the decision of the said committee will be placed on record, on the next date.

4. In para 11 of the said affidavit, it is stated that the tax receipt at page No.19 and the fitness certificate at page No.20 of the petition are fabricated and that the petitioner be directed to produce the originals of the same before this Court.

5. On 9th December, 2024, when the matter came up before us, we passed the following order :

“1 Learned counsel for the petitioner has tendered an affidavit of the petitioner. The same is taken on record. A copy thereof is served on the learned P.P.

2 During the course of arguments, learned counsel for the petitioner sought withdrawal of the petition.

3 We refuse to allow the petitioner to withdraw the petition, after having taken cognizance of what has

happened in the said case. Infact, pursuant to our orders, departmental inquiry was also initiated against some of the officers and hence, we refuse to permit the petitioner to withdraw the petition and will take the said petition to its logical end.

4 The matter will also not be permitted to be withdrawn by the petitioner since according to the prosecution, fake challans and invoices have been annexed to the petition. We have already observed on the last date that if we find that the challans and invoices are fake, appropriate direction will be given to direct the police to register an FIR on the basis of the false receipts and invoices annexed to the petition.

5 Mr. Venegavkar, learned P.P states that the departmental inquiry report will be placed before this Court on the next date.

6 Stand over to 20th January, 2025.”

6. According to Mr. Venegavkar, the Inquiry Report reads that the auction process has been conducted duly, in accordance with law and as such, there is no merit in the allegations made by the petitioner. Mr. Venegavkar further states that appropriate action be taken against the petitioner for annexing fake and fabricated documents to the petition. As noted in our order dated 9th December, 2024, learned Counsel for the petitioner, after going through the

affidavit, filed by the prosecution, sought to withdraw the petition, however, we did not permit the petitioner to withdraw the same.

7. Although, learned Counsel for the petitioner states that he is in possession of the RTO documents which are at page Nos.18 to 21, till date, learned Counsel for the petitioner has not been able to produce the original documents.

8. From the Inquiry Report conducted by the RTO, it appears that the documents on which learned Counsel for the petitioner placed reliance, are not in the RTO records.

9. Considering the aforesaid, it appears *prima facie* that the documents annexed to the petition are fabricated. Hence, we direct the Judicial Magistrate, First Class, under whose jurisdiction the concerned RTO falls, to depute an Officer of the Court, to lodge an FIR against the petitioner at the concerned police station.

10. Registry is directed to send a copy of the petition, along with annexures (fabricated documents at pages 19 and 20), to the concerned Judicial Magistrate, First Class, for ensuring compliance of the above direction.

11. As far as report is concerned, Mr. Venegavkar to file the said report in an affidavit within two weeks from today, with an advance copy to the learned Counsel for the petitioner.

12. Stand over to 10th February, 2025.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.