



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4107 OF 2024

Anna Maruti Shinde

.....Petitioner

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Amit Katarnaware (Through VC) with Ms. Pooja Dongre, for the Petitioner.

Mr. H. S. Venegavkar, Public Prosecutor with Mrs. P. P. Shinde, APP, for the Respondent-State.

Mrs. Manjula Rao, Senior Advocate, Amicus Curiae.

Mr. Prashant Waghude, Superintendent of Police, State CID is present.

Mr. Prashant Burde, Additional Director General of Police, CID (Through VC) is present.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 25th APRIL 2025.

P.C.:-

1. The aforesaid Petition is listed today in view of the letter received by the Registry from Justice Dilip B. Bhosale, Retired Former Chief Justice, Allahabad High Court, heading the Commission of Inquiry constituted by the Government of Maharashtra under the Commission of Inquiry Act. By the said letter dated 15th April 2025, the Registrar, Commission of Inquiry has requested for certified copies of the entire record of the ADR conducted by the Judicial Magistrate

First Class, Court No.1, Thane pertaining to the inquiry report of the custodial death of Akshay Shinde.

2. Vide order dated 7th April 2025, this petition was disposed off with certain directions. Paragraphs 32 and 34 read thus:

“32 Hence, we are left with no other option but to constitute a SIT under the supervision of Shri Lakhmi Gautam, the current Joint Commissioner of Police, Crime, Mumbai. The Joint Commissioner shall form the SIT, comprising officers of his choice from any department and the team shall be headed by a Deputy Commissioner of Police. If the selected officers are from different locations or department, they shall be relieved of their current duties to enable their full participation in the investigation. The State CID to hand over all papers relating to the ADR collected by them during the ADR investigation, to the Joint Commissioner of Police, Crime, Mumbai, within two days. Accordingly, the SIT to take appropriate steps in accordance with law, promptly, having regard to what is observed herein-above by us, in particular, the judgment of the Apex Court in Lalita Kumari (Supra), on receipt of papers. If the petitioner does not come forward for the reasons cited by him, the criminal law can be set into motion by anyone, including the police.

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34 *We are confident that the SIT, to be constituted as directed, shall make every endeavour to unearth the facts and take the case to its logical end. Needless to state, that the SIT shall conduct the investigation, fairly and impartially from all angles, uninfluenced by anyone.”*

3. We are informed that despite the aforesaid directions to the State CID, to handover all the papers relating to the ADR collected by them during the ADR investigation, to Mr. Lakhmi Gautam, Joint Commissioner of Police, Crime, Mumbai, to enable him to take appropriate steps in accordance with law within two days, the same has not been done. Mr. Venegaonkar informs us that the State CID has challenged the order dated 7th April 2025 in the Supreme Court by way of a Special Leave Petition. He states that the SLP was filed within two days of the order being passed. Mr. Venegonkar has not been able to state whether the SLP has been circulated for listing. Mr. Venegaonkar, however, states that Mr. Lakhmi Gautam, Joint Commissioner of Police, Crime, Mumbai under whom SIT was directed to be constituted, has formed the SIT.

4. Mr. Lakhmi Gautam, Joint Commissioner of Police, Crime, Mumbai is present in person. Mr. Lakhmi Gautam states that as soon as he receives the papers from the State CID, pursuant to the directions of this Court, he will take appropriate steps in terms of the order dated 7th April 2025.

5. Mrs. Rao, learned Special Public Prosecutor, appointed as Amicus in the aforesaid Petition points out that the State CID has not complied with the order dated 7th April 2025. She submits that a case is made out for issuing notice of contempt against the officers concerned, for their non-compliance with the order dated 7th April 2025. She further submits that such non-compliance undermines the rule of law and sends a wrong message to society at large.

6. Mr. Prashant Waghude, Superintendent of Police, CID, New Mumbai is also personally present in Court. When we questioned him as to why the papers have not been transferred as yet, he states that an SLP is filed in the Apex Court challenging the order of this Court. We thus directed Mr. Prashant Burde, Additional Director General of Police, CID to appear in the matter.

7. Accordingly, at 4:00 p.m, Mr. Burde appeared before us through video conferencing. He states that the papers pertaining to the ADR will be handed over forthwith to Mr. Lakhmi Gautam, Joint Commissioner of Police, Crime, Mumbai, latest by 6:00 p.m today. We accept his statement.

8. Mr. Lakhmi Gautam, Joint Commissioner of Police, Crime, Mumbai, states that on receipt of all the papers pertaining to the ADR, he will take appropriate steps in accordance with law as directed by us vide order dated 7th April 2025. Statement accepted.

9. Stand over to 30th April 2025, on the supplementary board.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)