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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 383 OF 2023

Sachin Shantaram Sonavane ...Petitioner
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 4477 OF 2024
IN
CRIMINAL WRIT PETITION NO. 383 OF 2023

M/s. Kamal Motors Through
Tejpalsingh Bhagatsingh Ailsinghani ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 4433 OF 2024
IN
CRIMINAL WRIT PETITION NO. 383 OF 2023

Sterling Motors Pvt.Ltd.Through
Ganesh Bhadke ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION (ST) NO. 6007 OF 2024
IN
CRIMINAL WRIT PETITION NO. 383 OF 2023

M/s. Madhuban Motors Pvt.Ltd. ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION (ST) NO. 8371 OF 2024
IN
CRIMINAL WRIT PETITION NO. 383 OF 2023

M/s Prakash Auto Pvt.Ltd. Through
Mr. Mahesh Prakash Ahuja ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Tohid Shaikh i/b Mrs. Anjali Patil for the Petitioner in
WP/383/2023.

Ms. Pragati Patil for the Applicant / Intervenor in IA/4477/2024.

Mr. Subir Sarkar a/w Ms. Trishka Khanna i/b AAK Legal for the
Applicant/Intervenor in IA/4433/2024.

Ms. Samruddhi Bendbhar i/b Parinam Law Associates for the Applicant
in IAST/6007/2024.

Sr.PI Pradip Sawant attached to Unit VI, EOW, Mumbai, present.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 22nd APRIL, 2025

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner seeks investigation of C.R.No. 166 of 2022 registered with the Wadala Truck Terminal Police Station, Mumbai to DCB CID or any other investigating agency.
3. Several orders were passed in the said case from time to time. On 14th March, 2024, the following order was passed :

“1 Heard learned counsel for the parties.

2 By this petition (Writ Petition No. 383/2023), the petitioner seeks a direction that C.R. No. 166/2022 registered at the instance of Wadala Truck Terminal Police Station, be re-investigated by the DCB CID or any other investigating agency. The petitioner also seeks that a report be called for, from the Senior Inspector of Police, Wadala Truck Terminal Police Station, with respect to the investigation carried out.

3 Mr. Shaikh, learned counsel for the petitioner in Writ Petition No. 383/2023, submits that considering the nature of allegations and the fraud involved, investigation of the said case be transferred to Economic Offences Wing (General Cheating),

Mumbai, (hereinafter referred to as 'EOW, GC, Mumbai') for further investigation. He submits that in Writ Petition No. 3942/2023, this Court has transferred the investigation to a specialised agency i.e. EOW, GC, Mumbai, despite charge-sheet having been filed in the said case, since investigation under Section 173(8) was kept open. He submits that this Court in the said Writ Petition had directed the Deputy Commissioner of Police ('DCP') of EOW, GC, Mumbai, to supervise the investigation and to appoint a Senior Inspector of Police to conduct further investigation in the said case and take appropriate steps in that direction.

4 Learned counsel for the petitioner submits that in Criminal Writ Petition No. 3942/2023, which pertains to C.R. No. 197/2023, the said C.R. was transferred from Govandi Police Station to EOW, GC, Mumbai, although, in the said C.R, one person i.e. the petitioner therein was involved. Mr. Shaikh submits that in the present case, there are eight motor companies involved i.e. (i) Kamal Motors (Tata Motors); (ii) Madhuban Motors Pvt. Ltd. (Toyota Motors); (iii) Excel Auto Vista Motors (Maruti Motors); (iv) Prakash Automobile Pvt. Ltd., (v) Modern Auto (Maruti Motors), (vi) Kiran Motors (Maruti Motors), (vii) Sterling Motors (Tata Motors) and (viii) S.S.K. Motors. He submits that the modus operandi in all the cases is similar, to that involved in C.R. No. 197/2023 registered with the Govandi Police Station and which is now transferred to EOW, GC, Mumbai and hence, although charge-sheet is filed in the present case, since investigation under Section 173(8) is kept open, the investigation of the present C.R. also be transferred to EOW, GC, Mumbai.

5 On the last date, learned A.P.P had tendered the papers of investigation. She submits that the Wadala Truck Terminal Police Station after registering C.R. No. 166/2022 and after investigating the case, filed charge-sheet in the said case, after keeping investigation under Section 173(8), open. She submits that since charge-sheet is filed, it is not necessary to transfer the investigation to EOW, GC, Mumbai.

6 Learned A.P.P states that out of the six accounts of the motor companies, the police have frozen the accounts of four Companies i.e. in two cases, only the lien account has been frozen and in two cases, the debit accounts have been frozen and two accounts being OD, no steps have been taken by the Investigating Officer.

7 Dr. Chandrachud, learned counsel appearing for the intervenor-M/s. Madhuban Motors Pvt. Ltd. vehemently opposes the prayer for transfer of investigation. He submits that the facts do not warrant transfer of investigation to EOW, GC, Mumbai, since charge-sheet has been filed in the present case. He submits that neither do the facts warrant such a transfer as sought.

8 We have perused the petition. The petitioner is the original complainant in C.R. No. 166/2022 registered with the Wadala Truck Terminal Police Station, Mumbai, as against Sandeep Kandalkar, Salim Ahmed Qureshi. Mohd. Mubin Hasan Siddiqui, Ganesh Sanap, Prakash Automobiles Owner and Associates, Kamal Motors Owner and Associates, Modern Motors Owner and Associates, Kiran Motors Owner and Associates, Madhuban Toyota Pvt. Ltd. Owner and Associates, Sterling Motors Owner and Associates, Excels Auto Vista Motors Owner and Associates, Leena

Sandeep Kandalkar and Tejal Kapadia, for the alleged offences punishable under Sections 406, 420, 465, 467, 468, 471, 120B, 34 of the Indian Penal Code.

9 *It appears that the petitioner purchased 32 vehicles through agents from the aforesaid eight motor companies, as the petitioner was engaged in buying and selling of old and new cars. Admittedly, the monies have gone into the accounts of the motor companies. According to the motor companies, they have handed over the vehicles to the persons to whom it was to be delivered, pursuant to the petitioner's letters. It is the petitioner's case that the said letters were never handed over by him and that the said letters, by which the vehicles were handed over to some third parties, does not bear his signature and that his signatures were forged and fabricated. Accordingly, since the petitioner was cheated, he lodged the aforesaid C.R, which was registered. According to the intervenor, the intervenor company had handed over the vehicles, and that the fraud was committed by the Managers/Agents and not the Company. Admittedly, the intervenor company has not taken any action against any person.*

10 *It appears from the chart shown by the learned A.P.P that about nine persons have been cheated vis-a-vis the vehicles purchased from Kamal Motors, four from Madhuban Toyota, one of Excel Vista, two from Prakash Automobiles, one of Modern Auto, two from Kiran Motors, and two from Sterling Motors.*

11 *We, vide order dated 18th January 2024 passed in Criminal Writ Petition No. 3942/2023, had considered a similar case in in which the petitioner therein was also cheated, despite having made payments to the company therein. The relevant paras of the said*

order read thus :

“2. By this petition, the petitioner seeks transfer of investigation of C.R. No.197 of 2023, registered with the Govandi Police Station, Mumbai to E.O.W. (General Cheating), Mumbai.

3. The grievance of the learned counsel for the petitioner is although investigation has been carried out pursuant to the petitioner’s FIR by the Govandi Police Station, Mumbai, the investigation has not been done properly, inasmuch as, the account/s of M/s. Madhuban Toyoto has/have not been frozen, considering that the petitioner had made direct payment by RTGS in the account of M/s. Madhuban Toyoto in their Kotak Mahindra Bank, Kurla (West) Branch, Current Account. He submits that no investigation has also been done vis-a-vis the Directors of M/s. Madhuban Toyoto and that only the Sales Manager of M/s. Madhuban Toyoto has been arraigned as an accused. It is further submitted that the Declaration, allegedly made by the petitioner, which is at page 17 of the petition, is a forged and fabricated document and that no investigation has been done by the police vis-a-vis the same. According to the learned counsel for the petitioner, the investigation be handed over to a Specialised Agency like E.O.W. (General Cheating), Mumbai, who have the necessary expertise, so that the accused, who have cheated the petitioner and who are responsible for forging the document are brought to book.

4. Mr. Konde-Deshmukh, learned

Additional Public Prosecutor states that charge-sheet has been filed in the said case, however, investigation under Section 173(8) is kept open and as such it is possible to further investigate the matter. He further submits that the investigation can be transferred to a Specialised Agency like the E.O.W. (General Cheating), Mumbai, for further investigation. He states that the D.C.P of the E.O.W. (General Cheating), Mumbai, will supervise the investigation and will appoint a Senior Police Inspector to conduct the further investigation in the said case and take appropriate steps in that direction.

5. *Accordingly, we transfer the investigation of C.R. No.197 of 2023, registered with the Govandi Police Station, Mumbai, to the E.O.W. (General Cheating), Mumbai. The police of the Govandi Police Station, Mumbai, to handover the papers pertaining to C.R. No.197 of 2023 to the D.C.P. E.O.W. (General Cheating), Mumbai, within one week from today.*

6. *The D.C.P. to thereafter appoint a Senior Police Inspector to conduct the further investigation in the said case. The D.C.P. to personally supervise the investigation.*

7. *Stand over to 29th February 2024.*

8. *Learned Additional Public Prosecutor to forthwith communicate the aforesaid order to the D.C.P. E.O.W. (General Cheating), Mumbai, so as to ensure*

compliance of the same.”

12 *The modus operandi of the accused therein is similar to the modus operandi of the accused in the present case. Infact, even in Criminal Writ Petition No. 3942/2023, charge-sheet was filed, however, investigation under Section 173(8) was kept open. Despite the same, we transferred the investigation to a specialised agency i.e. EOW, GC, Mumbai, for further investigation. In the present case, one of the companies is the same i.e. Madhuban Motors Pvt. Ltd. The present C.R. involves purchase of 32 cars.*

13 *Considering that EOW, GC, Mumbai, is a specialised agency, we deem it appropriate in the facts of the case, to transfer the investigation of the case, although charge-sheet has been filed in the present case, to EOW, GC, Mumbai, since investigation under 173(8) is kept open in the present case.*

14 *The police of the Wadala Truck Terminal Police Station to transmit all the papers pertaining to the investigation of the present C.R, to EOW, GC, Mumbai, within one week from today. After the investigation is transferred, the DCP of EOW, GC, Mumbai, to supervise the investigation in the present case and appoint the same Senior Inspector of Police, who is investigating C.R. No. 197/2023 registered with the Govandi Police Station.*

15 *We make it clear that we have expressed no opinion with respect to the complicity of any of the accused in the said case and expect that the concerned officer to investigate the case impartially and fairly and to take the same, to is logical end.*

16 Stand over to 25th April 2024, to enable the A.P.P to inform us about the progress in the investigation. Writ Petition No. 383/2023 and Writ Petition No.3942/2023 be listed together on the next date. ”

4. Thus, the investigation was transferred from Wadala Truck Terminal Police Station to EOW, Unit-VI and re-numbered as C.R.No. 24 of 2024. The EOW, Unit-VI had carried out investigation in the said case and filed chargesheet against the accused therein. The investigating officer has also created lien on the accounts of the accused persons. Supplementary chargesheet has also filed in the said case. We are informed that recently two absconding accused have been arrested and they are in custody.

5. Learned APP states that after investigation, supplementary chargesheet will be filed against the said accused.

6. Considering the aforesaid, we are satisfied with the investigation being carried out by the EOW, Unit VI, and do not deem

it necessary to transfer the investigation to any other agency.

7. The petition is disposed of on the aforesaid terms.

8. In view of the order passed in Criminal WP/383/2023, nothing survives for further consideration in the aforesaid interim applications. The same stand disposed of accordingly.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.