IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4774 OF 2025

Riyaz Ahmed Ahmed Ali Shaikh .. Petitioner
Vs.
State of Maharashtra & Ors. .. Respondents

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Mr. Rajiv Patil, Senior Advocate with Mr. Saurabh Ghag, Ms. Dakshata Sawant, Ms. Nikita Chavan, Mr. Siddhant Raul, Ms. Sanghpriya Sarode and Mr. Amit Dwivedi, Advocates for the Petitioners.
Mr. J. P. Yagnik, Additional Public Prosecutor for the Respondent Nos.1 to 4.
Mr. Bharat Mane, API, Unit-12, EOW, Mumbai.

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CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

DATE : 17th SEPTEMBER 2025.

P.C. :

This writ petition has been filed by a person who states that he was duped by Riyaz Abdul Machhiwala alias Riyaz Nagani, Abdul Hamid Abdul Aziz Shaikh, Haresh Kanji Joysar and Dilshad Abdul Majid Ahmed.

2. The petitioner states that in and around the year 2018 he came in contact with Mr. Dilshad Ahmed, who was an Additional Director with M/s. Mark International Food Stuff Pvt. Ltd. The said person introduced him to Mr. Riyaz Abdul Kader Machhiwala alias Riyaz Nagani, the then Director of M/s. Mark International Food Stuff Pvt. Ltd. Believing the promises given by those persons, the petitioner agreed to takeover the slaughter house owned by M/s. Mark International Food Stuff Pvt. Ltd. As the things

transpired later on, the petitioner found that the accused persons had suppressed vital information from him inasmuch as they had entered into separate transactions with other persons. It was revealed to the petitioner that M/s. Mark International Food Stuff Pvt. Ltd. did not own the slaughterhouse but had instead taken it on lease from the Sangli Kupwad City Municipal Corporation through a tender process. The petitioner was compelled to purchase shares of M/s. Mark International Food Stuff Pvt. Ltd. for this purpose. Accordingly, a Memorandum of Understanding (MoU) dated 29th January 2021 was executed under which shares were transferred from Mr. Riyaz Machhiwala and Mr. Abdul Shaikh to Ms. Afsha Mohammed Ali Shaikh and Mr. Mohammad Shahbaz Ali. Consequently, the shares were transferred in the names of Ms. Afsha Mohammed Ali Shaikh and Mr. Ramzan Mohammed Ali Shaikh, all of whom belong to the same family. Subsequently, upon multiple requests by Mr. Dilshad Ahmed to the petitioner to handover the entire management of the slaughterhouse on the ground that he had the expertise to operate the slaughterhouse, the petitioner entered into a MoU dated 30th January 2021 with Mr. Dilshad Ahmed and Mr. Riyaz Machhiwala duly signed by Ms. Afsha (one of the shareholder) wherein it was stated that Mr. Dilshad Ahmed shall manage the business of the slaughterhouse. However, MoU dated 1st February 2021 allegedly executed later on stated that Mr. Riyaz Macchiwala was in possession of the license required to operate the slaughterhouse.

3. The petitioner gave a legal notice regarding a consent decree fraudulently obtained by the parties to Special Civil Suit No.4 of 2017 when he received a letter from the Sangli District Court to appear before the Sessions Court at Sangli. According to him, the

documents attached to the letter clearly indicated that there was a previous legal dispute between one Mr. Mohd Shafi Bepari and M/s. Mark International Food Stuff Pvt. Ltd. in which Mr. Riyaz Machhiwala and Mr. Abdul Shaikh were directors of the company. The petitioner received a notice dated 8th February 2022 from one Advocate Chandrakant Mane seeking presence in Summary Criminal Case No. 2206/2021 and 2207/2021 wherein it was stated that as the previous directors of the company have now resigned, both of you are the directors presently. The petitioner lodged a complaint dated 19th July 2022 against Mr. Riyaz Machhiwala and others, pursuant to which an enquiry was conducted by the concerned officer. A closure report dated 5th December 2022 was issued by the Senior Police Inspector, EOW, Mumbai, informing the petitioner that the application did not disclose the commission of a cognizable offence and, therefore, the enquiry was closed.

4. The petitioner further states that he received legal notice dated 7th September 2023 from M/s. Legal India, Advocates which indicated that an amount of Rs.12,07,90,016/- was due from M/s. Mark International Food Stuff Pvt. Ltd. The petitioner further received a custom notice dated 12th February 2024 bearing no. CUS/BRC/4687/SCN/2023 from Ministry of Finance, Department of Revenue addressed to M/s Mark International Food Stuff Pvt. Ltd. pertaining to the defaults. The petitioner also received a notice from the Income Tax Department to pay the demand or take corrective action promptly and to appear before the said authority on 7th March 2024. Thereafter, on 5th March 2024 a detailed complaint was filed by the petitioner with Economic Offences Wing alleging cheating and forgery involving an amount of Rs.

22,07,90,616/-. The petitioner lodged an information with the police at Dongri Police Station vide First Information Report No.40 of 2025 for commission of offences under sections 420, 465, 468, 471 read with section 34 of the Indian Penal Code.

5. In this writ petition, the petitioner raises a grievance about inaction on the part of the Investigating Officer inasmuch as no action has been taken against the accused persons. Mr. Rajiv Patil, the learned senior advocate for the petitioner submits that the Investigating Officer has not taken cognizance of voluminous record/documents provided by the petitioner. On the other hand, Mr. Yagnik, the learned Additional Public Prosecutor, opposing this writ petition, states that the matter is under investigation and a charge-sheet has yet not been filed by the Investigating Officer.

6. As we understand, the petitioner who is the informant cannot have any information as regards the investigation conducted by the police. As the law mandates, even at the stage when a charge-sheet is filed "only the documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during the investigation with the statements recorded under section 161 of the Code of Criminal Procedure, 1973 of all the persons whom the prosecution proposes to examine as its witnesses" are made a part of the court records. Therefore, till the time a final report or final form is filed in the Court, the petitioner cannot have any information as regards the nature of investigation/inquiry conducted by the Investigating Officer. As to the grievance raised by the petitioner that no action has been taken against the accused persons, we would only indicate that this is the discretion of the Investigating Officer to proceed or not to proceed against the accused persons. There are statutory

provisions and the judgments in *“Satender Kumar Antil v. Central Bureau of Investigation & Anr.”* (2022) 10 SCC 51, *“Arnesh Kumar v. State of Bihar & Anr.”* (2014) 8 SCC 273 and *“Arnab Goswami v. State of Maharashra & Ors.”* (2021) 2 SCC 427 which lay down the guidelines for making arrest of a person who is made accused in a crime.

7. For the aforementioned reasons, we are not inclined to entertain this writ petition and issue directions in a pending investigation. Writ Petition No.4774 of 2025 is accordingly dismissed. The petitioner shall be at liberty to avail of such legal remedy as may be available to him in law, at the appropriate time and stage.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**

PRAVIN DASHARATH PANDIT

Digitally signed by PRAVIN DASHARATH PANDIT
Date: 2025.10.08 18:27:01 +0530