



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1384 OF 2022

Parshuram S/o Rambhilakh Sharma ... Petitioner
V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. N.S. Ghanekar a/w. Mr. Kuldip S. Kahalekar for petitioner.

Mr. Sandesh Patil a/w. Mr. Chintan Shah for respondent nos. 2 and 4-NIA.

Mr. Y.M. Nakhwa – APP for the State.

CORAM : SUNIL B. SHUKRE &
KAMAL KHATA, J.J.

DATED : MARCH 23, 2023.

PC. :

1. Heard learned counsel for the petitioner, learned APP for respondent no. 1 and Mr. Sandesh Patil, learned counsel for the respondent nos. 2 and 4.

2. By this petition the petitioner is seeking issuance of a writ of mandamus to the respondents to investigate the role of the then Commissioner of Police (Mr. Parambir Singh) in Crime No. 35 of 2021 registered with Gamdevi Police Station, Mumbai in connection with Antilia Bomb Blast Case. In this crime, it is alleged that one Mansukh Hiren has been murdered by some persons.

3. The petitioner claims to be a social activist working for better and reformed society. The petitioner also claims that he knows something about the darker side of the whole case which gives rise to a possibility of Mr. Parambir Singh, former Commissioner of Police, Mumbai having played a shady role, thereby suggesting that Mr. Parambir Singh himself could be one of the accused persons.

4. According to Mr. Sandesh Patil, learned counsel for respondent nos. 2 and 4, the petitioner has no locus standi to file this petition inasmuch as this is not a petition registered as Public Interest Litigation and that the petition is based upon the hearsay evidence gathered from the newspaper reports, as can be seen from the averments made in paragraph 2 of the petition.

5. Learned counsel for the petitioner submits that, initially, when the petition was filed, the source of information of the petitioner was only the newspaper reports, but later-on, the petitioner has gathered some more information, which indicates possibility of involvement of the former Commissioner of Police, Mumbai in the crime. He relies upon the observations made by the co-ordinate bench of this Court in Criminal Appeal No. 258 of 2022 decided on 23rd January 2023, which was filed by Pradeep Rameshwar Sharma, one of the accused in the present crime, to whom bail was denied by the co-ordinate bench of this Court.

6. Insofar as the averments made in the petition are concerned, Mr. Sandesh Patil, learned counsel for the respondent nos.

2 and 4 is right. These averments are only in the nature of hearsay evidence because the suspicion that the petitioner carries against the former Commissioner of Police, Mumbai is drawn from whatever information he has gathered from the newspaper reports. The petitioner also does not dispute this fact. It appears that during the pendency of this petition, the petitioner has got some more material to contend that his suspicion is based upon reasonable material, thereby warranting investigation in the crime, in support of which, reliance is placed upon the observations made in paragraph 7.11 in the judgment dated 23rd January 2023 rendered in Criminal Appeal No. 258 of 2022.

7. We have carefully gone through the observations made in this paragraph and in our considered opinion, these observations, except for expressing suspicion about objectivity and integrity of the investigation made by the police on a particular aspect of the case, which is payment of huge fees of Rs.5 lakhs to one Ishaan Sinha, do not go any further. In fact, the Division Bench has only asked a question as to why a huge payment was made to one Ishaan Sinha, Cyber Expert and further question was asked as to what was the interest of the Commissioner of Police. But, beyond asking these questions, the Division Bench had said nothing. Now, if the petitioner seeks to carry forward this suspicion into a reasonable possibility of the former Commissioner of Police having been involved in the present crime, the petitioner would have to show some more circumstances which convert his suspicion into a reasonable probability of former Commissioner of Police having indulged in some or other criminal activity, the cognizance of which needs to be taken.

8. As stated earlier, the averments made in the petition are hearsay in nature. They do not disclose commission of any cognizable offence nor do they show that there is any reasonable probability of commission of cognizable offence at the hands of former Commissioner of Police. Unless and until such material is available on record and it is within the own knowledge of the person seeking registration of a crime, it cannot be said that any more investigation by police is warranted and that a person seeking such investigation in the crime has locus in the matter. It is only that informant who would have a locus to file FIR with police station, in terms of section 154 of Cr.PC., who has credible information about commission of cognizable offence. Criminal law can be set into motion only after the complaint made to police discloses commission of cognizable offence in terms of section 154 of Cr.PC. All these aspects necessary for initiation of investigation into a cognizable crime are absent in this case.

9. In view of the above, we find no substance in the petition. The petition stands dismissed.

(KAMAL KHATA, J)

(SUNIL B. SHUKRE , J)