

(2011) 03 BOM CK 0241
In the Bombay High Court
Case No : Writ Petition No. 210 of 2011

Mr. Suryakant Jayram Anarthe and Another

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 18-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 56(3)

Citation : (2011) 03 BOM CK 0241

Hon'ble Judges : P.V. Hardas, J;N.D. Deshpande, J

Bench : Division Bench

Advocate : Sandeep Karnik, for the Appellant; K.V. Saste, APP and B.D. Joshi, for Intervenor, for the Respondent

Final Decision : Allowed

Judgement

P.V. Hardas, J.—Rule. Rule returnable forthwith. With consent of the learned Counsel for the parties, this Petition is heard finally at the stage of admission.

2. It appears that this is a Petition under Article 226 of the Constitution of India by which the Petitioner has prayed for issue of a writ of mandamus directing transfer of investigation from Ambarnath police station to State-CID or to Central Bureau of Investigation wp 210.11.sxw or to any other competent and independent agency. The Petitioner also prays for issuance of writ of mandamus directing transfer of investigation from Ambarnath police station to the Central Bureau of Investigation. A reference at this juncture, may usefully be made to the order of the Division Bench of this Court dated 9th February, 2011. It appears that the Petitioners in this Petition had earlier filed Public Interest Litigation No. 10 of 2009 and alleging that officials of Ambarnath Municipal Council were siphoning away public funds and were indulging in misappropriation of the amount of taxes and other revenues deposited the tax payers. The Division Bench made a reference to the documents relied upon by the Petitioner therein and ultimately directed the Petitioners by its order dated 13th January,

2010 to pursue the remedy available to the Petitioners by way of filing a criminal complaint before the Magistrate. Accordingly, the Petitioners had filed criminal wp 10.11. xw complaint which was registered as OMA No. 126 of 010 in the Court of Judicial Magistrate, Is class, Ulhasnagar. The learned Magistrate on being satisfied about the averments made in the complaint directed the Senior Police Inspector of Ambernath police station to investigate the matter personally and to file his report. The aforesaid direction was issued u/s 56(3) of Code of Criminal Procedure on 28th May, 2010. On the basis of the said directions, the Senior Police Inspector of Ambernath police station registered an offence on 1st June, 2010.

3. The present Petition has been filed by the Petitioner complaining therein for transfer of the investigation from Ambernath police station to any other competent agency. The order adverted to above at paragraph 5 expresses anguish over the manner in which investigation was carried out and ultimately the Division Bench directed that the investigation may be transferred to the Economic Offence Wing, Thane wp 210.11. sxw to be investigated by an Officer not below the rank of a Deputy Commissioner of Police. Further hearing of the Petition therefore, came to be deferred till 4th March, 2011. This Petition is accordingly listed before us.

4. Learned APP states on instructions that pursuant to the order of this Court dated 9th February, 2011 the investigation has been transferred to Deputy Commissioner of Police, Economic Offence Wing, Thane who is the Special Investigating Officer in the present case. In the light of the aforesaid statement according to us, the reliefs which the Petitioner has prayed for in this Petition stand fully granted to him and no further orders are required to be passed.

5. We therefore, allow this Petition make the Rule absolute in terms of order of the Division bench of this Court dated 9th February, 2011 as well as on the basis of the statement of the learned APP that the wp 210.11. sxw investigation has been transferred to Deputy Commissioner of Police, Economic Offence Wing as a Special Investigator. We hope and trust that the Special Investigation Officer would expeditiously complete the investigation and would further take steps in accordance with law.

Rule is thus made absolute on above terms with no order as to costs.