

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION (STAMP) NO.13552 OF 2024

Vaibhav Mohan Thakur and Ors. ... Petitioners
Versus
State of Maharashtra and Ors. ... Respondents

Mr. Abhinandan Vagyan i a/w Mr. Vedant Bende i/b Mr. Sumit A. Shinde, for the Petitioners.

Mr. H. S. Venegavkar, P.P. a/w Ms. Kranti T. Hiwrale, A.P.P for the Respondent-State.

Additional Commissioner of Police (Western Region)-Mr. Pramjit Dahiya, DCP Zone-8-Mr Manish Kalwaniya, Assistant Commissioner of Police (Kherwadi Division)- Mr. Suhas Kamble, Assistant Commissioner of Police (Goregaon Division)-Mr. Hemant Sawant, Assistant Commissioner of Police-Mr. Dattatray Thopate, Senior P.I.- Mr. Sagar Shivalkar, and API-Mr. Atul Sanap, from Goregaon Police Station, are present.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 23rd OCTOBER 2024

P.C. :

1. On 17th October 2024, the following order was passed by this Court in the aforesaid petition : -

“1 Despite C.R. No. 490/2021 having been registered with the Kherwadi Police Station, Bandra (East), Mumbai, in December 2021, it appears that till date, only 24 witnesses’ statements have been recorded.

2 Learned A.P.P, on instructions, states that in the last month, 64 more persons have come forward. She, however, states that statements of none of the 64 persons have been recorded by the police, till date. 3

3 We request, the Deputy Commissioner of Police (‘DCP’) of Zone-8 to look into the same, as to why the investigation of C.R of 2021 is pending till date.

4 The complainant has a legitimate expectation that once the C.R. is registered, the same will be taken to its logical end, expeditiously. This legitimate expectation cannot be ignored. In this case, we find that there is lethargy on the part of the Officers in taking the investigation in the said C.R. to its logical end. If there is delay in investigating the case, the complainant will loose faith in the system, which cannot be permitted. It is the responsibility of the police to file appropriate report expeditiously, once the FIR is lodged. Even in the present case, it was open for the police to file a charge-sheet and continue to investigate under Section 173(8) of the Criminal Procedure Code, which has not been done.

5 In this view of the matter, we direct the Additional Commissioner of Police (‘Addl. C.P’) of Western Region to look into the investigation carried out in C.R. No.490/2021, registered with the Kherwadi Police Station and inform us on the next date, the steps the Police intend to take in the said C.R to complete the investigation expeditiously.

6 The petitioner has alleged that 884 maps have been forged and construction of houses/bungalows have been shown as having been constructed prior to 1964. It is a serious matter and requires to be investigated thoroughly and the Police need to go into the root of the matter. Instead, we find that the Police have been lackadaisical and have hardly done any investigation, for the reasons best known to them.

7 Learned counsel for the petitioner further states that despite the Assistant Commissioner of Police (‘ACP’) being made aware of the illegalities, the ACP has taken no action.

8 As far as the petitioner’s statement dated 21st July 2023 made before the Goregaon Police Station is concerned, learned counsel for the petitioner states that after going through the maps relating to construction at Madh-Island, it has come to the notice of the petitioner that the majority of the maps have been manipulated to get exemption under the Coastal Regulation Zone (‘CRZ’) and to show that the structures are prior to 1964. He submits that despite the said statement/complaint being made before Goregaon Police Station, the Goregaon Police have done nothing to look into the same. Learned counsel relied on the letter addressed by the Senior Inspector of Police, Goregaon Police Station, which is at page 642 of the petition.

9 Pursuant to our order dated 16th October 2024, ACP Mr. Hemant Sawant and Senior PI Mr. Sagar Shivarkar of Goregaon Police Station are present in Court. They state that they have forwarded the papers to the Controller of Slums (BSD Court), Mumbai, and after the report is received from the Controller of Slums,

appropriate action will be taken.

*10 Stand over to **23rd October 2024**. To be listed at 12:30 pm.*

*11 Considering the gravity and seriousness of the case in hand and the conduct of the officers, which we have seen after perusing the papers, we deem it appropriate to direct the Addl. C.P, Western Region, to remain present in Court on Wednesday i.e. **23rd October, 2024 at 12.30 p.m.***

12 ACP Mr. Hemant Sawant and Senior P.I Mr. Sagar Shivarkar of Goregaon Police Station, both to remain present in Court on the next date. Sr. PI Mr. Dattatray Thopate to appear through VC.

13 Learned A.P.P to communicate this order to all concerned.”

2. Pursuant thereto, the Additional Commissioner of Police (Western Region), Mr. Pramjit Dahiya, Assistant Commissioner of Police, (Goregaon Division) Mr. Hemant Sawant, Senior P.I.-Mr. Sagar Shivalkar, from Goregaon Police Station and Mr. Dattatray Thopate, the then Senior P.I. attached to Goregaon Police Station, are present before us.

3. Mr. Venegavkar, learned Public Prosecutor, on instructions of the Additional Commissioner of Police (Western Region), Mr. Pramjit Dahiya, submits that an departmental enquiry has been initiated against the Investigating Officer of Kherwadi Police Station, Mumbai, Mr. Ganpat Ganeshkar. Mr. Venegavkar, learned Public Prosecutor, submits that the police have no objection if a Special Investigation Team (SIT) is constituted to investigate the case in hand.

4. Considering the statement made by Mr. Venegavkar, learned Public Prosecutor, we deem it appropriate to constitute a SIT, headed by the Additional Commissioner of Police (Crime)–Mr. Shashi Kumar Meena. Mr. Shashi Kumar Meena to appoint a Deputy Commissioner of Police of his choice as well as team of officers to investigate the complaints made by the petitioners. We also direct the Joint Commissioner of Police (Crime) – Mr. Lakhmi Gautam to supervise the overall investigation of the said case.

5. All the four C.Rs i.e. C.R. Nos.82 of 2020; 97 of 2021; 98 of 2021 registered with Goregaon Police Station, Mumbai and C.R. No.490 of 2021 registered with the Kherwadi Police Station, Mumbai be transferred for further investigation to SIT.

6. Mr. Venegavkar, learned Public Prosecutor, states that the papers pertaining to the investigation of the aforesaid C.Rs will be forwarded to the SIT so constituted, within 48 hours from today. Statement accepted.

7. Needless to state, that the police to re-record the statements of the persons during the course of the investigation and look into the allegations made by the petitioners. A copy of the aforesaid petition alongwith additional affidavits be placed before the Additional Commissioner of Police (Crime)–Mr. Shashi Kumar Meena.

8. The petitioners to appear before the Additional Commissioner of Police or the Deputy Commissioner of Police so appointed, as and when summoned and co-operate with the

Corrected (in bold) vide order dated 25.10.2024

investigation.

9. The status report of the investigation to be placed before us, on the next date.

10. Stand over to **5th December 2024.**

All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.