

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

CRIMINAL WRIT PETITION NO. 3430 OF 2013

Mr. Mihir Krishankant Prabhudesai & anr.	...	Petitioners
V/s.		
The State of Maharashtra & ors.	...	Respondents

Mr. S.B.Deshmukh for the petitioners.
Mr. J.P. Yagnik, APP for the State.

**CORAM : NARESH H. PATIL AND
SMT. ANUJA PRABHUDESSAI, JJ.**

10th April, 2014.

P.C.

We have perused the order passed by the Judicial Magistrate, First Class, Pune in RCC No. 5410/2010 below exhibit 19 and 21 on 2nd July, 2012. The police was directed to conduct further investigation.

2. We have also perused the Assessment Order passed by the Dy. Commissioner of Income-tax, Central Circle, Pune and the other record placed before us.

3. The grievance of the petitioner is that in spite of the direction issued by Judicial Magistrate, the police is not investigating the crime with diligence due to which it is very likely that the persons involved in connection with the alleged crime would be benefited.

4. Learned APP submits that investigation is going on. Though statement was made by the Prosecutor on 30th January, 2014 to the effect that investigation would be completed within eight weeks, the learned APP on instructions seeks three months time to complete the investigation.

5. From the perusal of the investigation papers placed before us, we find that investigating agency ought to have shown more dedication in investigating this case. The investigating agency ought to have taken certain clues from the income-tax reports furnished by the income-tax department and material collected during income-tax raid. We are informed that certain proceedings are going on before Charity Commissioner. The investigating officer ought to have collected necessary material and documents which were submitted before the Charity Commissioners. The learned APP submitted that out of many students who were alleged to have paid donation, capitation fees for securing seat in management quota, two students are being interrogated today. Those two students are present in the ACP Office, Pune as on today. As of now we are not convinced to accept the submissions of the State that such students who allegedly paid capitation fees, donations are not coming forward to give statement before police. Such of the students could have been contacted by the police for the purpose of recording of their statements. The investigating officer need not wait for students and other persons to come to him and make a statement. On the whole, we find that the investigation officer is required to conduct the investigation of this case with more seriousness. We still provide one more opportunity to the ACP to go ahead with the investigation, but we are of the view that further investigation now shall be carried out under the supervision of Commissioner of Police, Pune.

6. We, therefore, direct Commissioner of Police, Pune to supervise the investigation done by the concerned ACP in respect of the subject crime. Further progress shall be intimated to this Court on 5th May, 2014 at 3.00 p.m.

(ANUJA PRABHUDESSAI, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.A.