

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 8423 of 2020

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PATEL MANUBHAI RAMABHAI
Versus
STATE OF GUJARAT & 1 other(s)

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Appearance:

DILIPKUMAR U PRAJAPATI(8344) for the Applicant(s) No. 1
MS MAITHILI MEHTA APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 04/07/2022

ORAL ORDER

1. By way of this application, the applicant has prayed for following reliefs:

“A. To admit and allow the present petition.

B. To issue appropriate writ order or direction, directing transfer the investigation relating to corruption and financial irregularities of millions of rupees, to specialized agency like C.I.D. (Economic Offences Wing) or Anti-Corruption Bureau, in the interest of justice;

C. to take appropriate action against respondent no.2 erring police officer, in the interest of justice;

D. To grant such other and further relief as the nature and circumstances of the present case may require in the interest of justice.”

2. Heard learned advocate Mr.Dilipkumar Prajapati for the applicant submitted that though the complaint was submitted on 08.06.2019 about alleged irregularities by Kapadwanj Agriculture Produce Market Committee, till date no actions are taken by the concerned authorities.

3.1 Upon inquiry from the Court, learned advocate Mr.Prajapati states that the petitioner happened to be the nominated member of Kapadwanj Agriculture Produce Market Committee. However, Mr.Parajapati does not have any information nor he could have pointed out from the petition also that during which period he was nominated member of Kapadwanj Agriculture Produce Market Committee. However, he points out from the record that earlier petitioner had preferred petition being Special Criminal Application No.3868 of 2020, which was disposed of by the coordinate Bench of this Court, *vide* order dated 01.10.2020 by issuing following directions to the respondent authorities.

“7. In view of the material on record, it is incumbent duty on the part of the Investigating Officer to look into the

aforesaid allegations of the applicant in accordance with law. Now, considering the materials placed on record, some direction is required to be issued to the concerned police authority to look into the matter. Accordingly, the concerned police authority is directed to look into the application of the applicant dated 8.6.2019, which is at Annexure-M, Page-85 of the application. The police authority may also look into the additional material, which may be placed before it by the applicant. If the offence is found to be cognizable, FIR be registered in this regard and if no material is available for taking cognizance of the offence, then, the police authority shall inform the applicant accordingly so that the applicant may take appropriate recourse in accordance with law.

8. With these observations, the present petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent. Direct service through present mode of service is permitted.

9. The concerned police authority be informed accordingly.”

3.2 It is the grievance of the petitioner that despite the aforesaid order dated 01.10.2020, no FIR is registered against the persons named in his application.

4. Mr.Prajapati points out from the record that as nothing was done despite the direction of the Court, he preferred an application under Right to Information Act, 2005 asking for certain details on 18.11.2020 and the same was replied by Kapadwanj Town Police Station, Kapadwanj on 28.08.2021 wherein according to the applicant, in column no.7, Police Inspector, Kapadwanj Town Police Station has accepted that the allegations against the applicant amounts to an offence. He also submitted that for the alleged irregularities, an inquiry was conducted by the District Registrar of Cooperative Societies, Anand as well and *vide* order dated 20.12.2019, the District Registrar, Cooperative Societies, Anand recommended that the legal action be taken against four eye-witnesses viz. (i) Prakashbhai Somabhai Patel, (ii) Daksheshbhai Shamabhai Patel, (iii) Mahendrabhai K. Patel and (iv) Rameshbhai Gautambhai Parmar. Against the aforesaid order, an appeal is preferred and the same is pending.

5.1 Upon inquiry from the Court, learned advocate Mr.Prajapati could not point out the locus of the complainant.

5.2 This Court has perused the record and considered the averments made in the application. This Court has also considered the aspect that *vide* order dated 01.10.2020 passed by the coordinate Bench of this Court in Special Criminal Application No.3868 of 2020, certain directions to the police authorities were issued for registration of FIR. However, while issuing the directions, the Court also directed the police authorities that if no material is available for taking cognizance of the offence, police authorities shall inform the applicant about the same.

5.3 Pursuant to the aforesaid order, it can be seen from the reply submitted by Public Information Officer, in an application preferred by the petitioner under the Right to Information Act, 2005 whereby Police Inspector, Kapadwanj Town Police Station had, *vide* his reply dated 18.01.2021, categorically stated that the matter was inquired thoroughly and upon inquiry the allegations made are not supported by the evidence and, therefore, application preferred by the petitioner was filed. The applicant was duly informed about the same *vide* communication bearing Outward No.1944 of 2020 dated 11.11.2020 and applicant was provided

with the documents related to the inquiry.

9. The applicant challenged the aforesaid reply by filing Appeal No.3143 of 2021 before the Gujarat Information Commission, Gujarat State which was ultimately dismissed on 24.11.2021. Now, by way of this application, the applicant has prayed for reliefs, as stated in forgoing paras.

10. Considering the fact that the applicant could not point out as to how he is aggrieved by the alleged offence committed by the persons named in the application as well as considering the fact that pursuant to the directions issued by coordinate Bench of this Court dated 01.10.2020 in Special Criminal Application No.3868 of 2020, the Police Inspector, Kapadwanj Town Police Station investigated the matter and ultimately since nothing was found no FIR was registered as well as the fact that though the District Registrar, Cooperative Societies also, in his inquiry, found that some irregularities have taken place and recommended action against the erring office bearers, learned advocate Mr.Prajapati himself has stated that against the said order of the Registrar, Cooperative

Societies the appeal is pending, no further actions are required to be taken in respect of the present application. Further, as far as the report submitted by District Cooperative Registrar pursuant to the inquiry is concerned, when the appeal against the said report is pending before the concerned authority, it would not be appropriate for this Court to issue any direction in respect of the same, more particularly when the District Registrar, Cooperative Societies is not party before this Court.

11. In view of above, this Court deems it fit not to issue any direction to entertain this application.

12. For the reasons recorded above, present application is required to be dismissed and it is dismissed accordingly.

(NIRZAR S. DESAI,J)

MISHRA AMIT V.

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