

**W.P. No.6602/2011****Date: 31.1.2012**

Shri Amit Agrawal, learned counsel for the petitioner.

Shri C.R. Karnik, learned G.A. for the respondent/State.

Heard finally with consent.

**ORDER**

1/ This writ petition has been filed by the petitioner seeking a direction to the respondents to complete the investigation with regard to Crime No.62/2010 and 63/2010 for offences punishable under Section 420, 467, 468, 471 & 120-B of the Indian Penal Code and to direct the respondent no.1 to initiate disciplinary action against respondent no.4 i.e. Superintendent of Police, Neemuch.

2/ A reply has been filed by the respondents stating that on account of the pendency of MCRC before this Court and the interim order passed therein, no further action has been taken and that the proper course of action available to the petitioner is to seek an appropriate direction in the pending MCRC.

3/ Learned counsel appearing for the petitioner submitted that in the pending MCRC only arrest has been stayed and not the investigation, therefore, the respondents be directed to investigate the matter.

4/ Learned counsel appearing for the respondent/State submitted that the stay of arrest has wide implications and, therefore, to avoid any violation of the said order the respondents are not investigating the matter.

5/ I have heard learned counsel for the parties and perused the record.

6/ The facts on record indicate that a FIR was registered by the petitioner against certain persons for offences under Section 420, 467, 468, 471 & 120-B IPC. Some of those persons namely J.C. Pande and Smt. Kusumlata Pande have filed the M.Cr.C. No.2471/2010 before this Court for quashing the FIR and this Court on 15.4.2010 while considering the prayer for stay of investigation, directed that those petitioners will not be arrested in Crime No.62/2010 of Police Station Jawad until further dates. It has been stated before this Court that the said MCRC is still pending and the stay is operating. In that MCRC there is already a direction for impleading the present petitioner as party.

7/ A categorical stand has been taken by the respondents that the stay of arrest has wide implications and in order to avoid the violation of the stay order, they are not taking further steps in respect of the investigation against the two persons, who are the petitioners in the said MCRC.

Against the remaining accused persons the investigation is in progress. These two persons have not even been impleaded as party in the present writ petition. The record indicates that in the said pending MCRC the respondent/State has already filed an application for vacating the stay, on which the orders are awaited.

8/ The aforesaid analysis indicate that very foundation of the grievance of the petitioner is the order dated 15.4.2010 passed in MCRC, therefore, the proper remedy available to the petitioner is to file an appropriate application in the pending MCRC. The petitioner can not be granted any relief in the present writ petition, which is accordingly dismissed with liberty to the petitioner to take appropriate proceedings in the pending MCRC in accordance with law.

**(Prakash Shrivastava)**  
**J u d g e**