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

CRIMINAL WRIT PETITION NO.1502 OF 2010

Mrs. Daksha Van Dijick. ....Petitioner

Vs.

Commissioner of Police & ors. ....Respondents

Mr. P.M.Havnur i/b. Ms. Radhika Samant & Shabana Ansari, advocate for petitioner.

Ms. A.P.Puray, advocate for Respondent No. 3.

Mr. D.P.Adsule, APP for State.

**CORAM:- A.M.KHANWILKAR AND  
P.D.KODE, JJ.**

**DATED:- OCTOBER 22, 2010.**

**PC.**

1. Heard Counsel for the parties. By this Petition under Article 226 of the Constitution of India, it is prayed that direction be issued to the Respondent No. 1 to register FIR on the basis of complaint dated 2<sup>nd</sup> February, 2009 lodged on 9<sup>th</sup> February, 2009 with Matunga Police Station sent by M/s. Werelkinderen, who is stated to be an organisation authorised to process inter country adoption.

2. Going by the said written complaint, it would appear that the said organisation wanted certain matters to be enquired into, which are in relation to

the orders passed by this Court in guardianship Petition being Mis. Petition No. 1177 of 1975. The senior police officer of Matunga Police Station informed the said organisation by communication dated 7<sup>th</sup> March, 2009 that it was not possible to furnish information sought by the said organisation, as the same was confidential and already submitted to the Court.

3. The Petitioner who was given in adoption to foreign parents, has chosen to file the present Petition under Article 226 of the Constitution of India praying for direction against the Respondent No.1 to register FIR. Counsel appearing for the Petitioner submits that the institution-Respondent No.3, who had given the Petitioner in adoption should be proceeded for offence of giving kidnapped child in adoption. In his submission, offence of kidnapping can be legitimately registered in the fact-situation of the present case by the local police and the same will have to be investigated and taken to its logical end.

4. The Counsel appearing for the Respondent No.3, on the other hand, submits that the information regarding the biological parents of the Petitioner cannot be divulged on account of the confidentiality agreement, which is binding on the Respondent No.3. Further, all requisite information regarding the biological parents of the Petitioner was placed before the Court in adoption

proceeding as back as in 1975. It is only after being satisfied about legitimacy of adoption of the Petitioner by the foreign adoptive parents, the Court proceeded to pass order in the said proceedings.

5. We are in agreement with the submission of the respondent No.3. As a matter of fact, the presumption would be that the adoption of the Petitioner has been completed after following necessary procedure and the High Court being satisfied about the genuineness thereof. As aforesaid, going by the written complaint sent by M/s. Wereldkinderen dated 2<sup>nd</sup> February, 2009, it was not for registration of complaint against the Respondent No.3 as such but the substance thereof was to ascertain the information regarding the biological parents of the Petitioner and nothing more. Insofar as that information is concerned, the Respondent No.3 is justified in claiming confidentiality about the said information. The question is whether the argument canvassed before us that the police was obliged to register FIR in relation to the offence of kidnapping of the Petitioner can be countenanced. In our opinion, in the fact situation of the present case, the grievance of the Petitioner is ill-advised. Reliance was placed on the decision of the Apex Court in the case of Laxmi Kant Pandey v/s. Union of India(AIR 1984 SC 469), in particular, paragraph-23 thereof. The dictum of the Apex Court in the said paragraph, on the other hand, would indicate that the

right of disclosure of information about the biological parents of the adopted child is of the foreign adoptive parents. That discretion has to be exercised by them and they are entitled to furnish information about biological parents to the adopted child, after the child attains maturity. Significantly, the Petitioner has not chosen to implead her foreign adoptive parents in the present proceedings, even if she was keen on disclosure of information regarding her biological parents. In our opinion, however, suffice it to observe that the question of directing the local police officials to register FIR, for that matter against the Respondent No.3 does not arise and that too at the instance of the Petitioner for offence of kidnapping. However, for the relief of disclosure of the information of her biological parents, Petitioner will be free to pursue her remedies in other appropriate proceedings. The same will be decided in accordance with law.

6. The Petition is devoid of merits. The same is dismissed.

**(P.D.KODE, J.)**

**(A.M.KHANWILKAR, J.)**