

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.576 OF 2014
IN
CRIMINAL WRIT PETITION NO.4716 OF 2014

Koshibai Arjundas Rohara Applicant

In the matter between

Anil Hardasmal Kamra @ Mukhi & Ors. ... Petitioners

V/s.

The State of Maharashtra & Anr. Respondents

Mr. S.K. Gawda for the Applicant.

Mr. G.S. Jadhav, i/by Mr. R.D. Suryawanshi,
for the Petitioners.

Mr. V.B. Konde-Deshmukh, A.P.P.,
for Respondent No.1/State.

CORAM : M.L. TAHALIYANI, J.

DATE : 24TH DECEMBER, 2014.

P.C. :

1. Heard both the sides.

2. The Applicant is the Respondent in Criminal Writ Petition No.4716 of 2014, in which they have challenged the order of the learned Ad-Hoc Additional Sessions Judge, Kalyan, upsetting the order of the learned Magistrate and directing the Police to carry out investigation under Section 156(3) of the Cr.P.C. The Applicant had

filed an application before the Magistrate under Section 156(3) of the Cr.P.C. alleging certain cognizable offences against the Respondents, who are the Petitioners in Criminal Writ Petition No.4716 of 2014. The learned Magistrate, instead of directing investigation, kept the complaint for recording statement of the Complainant and decided to proceed under Section 200 of the Cr.P.C. The Applicant was aggrieved by the said order and she, therefore, moved the Sessions Court by way of Revision Application. The Sessions Court granted relief to the Applicant and directed investigation under Section 156(3) of the Cr.P.C. The Petitioners are aggrieved by the said order and, therefore, they have moved this Court by way of Writ Petition. The Writ Petition is listed for hearing on 16th January, 2015. In the meantime, this Court had directed that the order of the learned Additional Sessions Judge shall remain stayed. In my opinion, the learned Counsel for the Appellant is right in as much as the stay on proceedings and investigation may create some problem in view of the ensuing Vacation. The call record which is required to be seized by the Police expires in the month of January and may not be available to the Investigating Officer. In the circumstances, I am inclined to vacate the ad-interim relief granted to the Petitioners in Petition No.4716. Hence, I pass the following order :-

"O R D E R"

- (i) The interim relief granted in terms of prayer clause (c) shall stand vacated.
- (ii) The Criminal Application stands disposed of.
- (iii) The Criminal Writ Petition shall appear on the

Board on the date already given by the CMIS.

JUDGE