

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 492 OF 2015
IN
CRIMINAL WRIT PETITION NO. 1208 OF 2013

Vasant s/o. Ramaji Mahajan

....Applicant.

Versus

The State of Maharashtra & Ors.

....Respondents.

Mr. N.K. Kakade, Advocate for applicant.

Mr. A.V. Deshmukh, APP for State.

Mr. K.B. Jadhav, Advocate for respondent No. 3.

CORAM : T.V. NALAWADE, J.
DATED : 12th February, 2015.

ORDER :

1. The application is filed for relief of recalling the order made by this Court in Criminal Writ Petition No. 1208/2013 and for permission to withdraw the writ petition. The learned counsel the applicant submitted that he had no knowledge that in Suo-muto Revision Application No. 27/2014, learned Additional Sessions Judge, Jalgaon had already set aside the order made by learned J.M.F.C. He submitted that in view of these circumstances, police did not file chargesheet against the petitioner and so, the order made by this Court needs to be

recalled.

2. This Court has considered the power of J.M.F.C. The point involved was, whether J.M.F.C. has power to direct investigation under section 156 (3) of Cr.P.C. in a complaint filed for offences punishable under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The other point involved was that whether he can direct to District Superintendent of Police in view of the power empowering under section 156 (3) of Cr.P.C. which prescribes some limits. There was also direction to make investigation of the offences of murder, abatement of it and conspiracy to commit it.

3. There cannot be any dispute that Magistrate has such power. The only point on which this Court allowed the writ petition is that a direction was given to District Superintendent of Police instead of giving direction to Officer in-charge of concerned police station. When such a direction is given, it is up to the concerned police station to see that competent Officer makes investigation of the case. Thus, the writ petition was allowed on merits and order of J.M.F.C. was corrected by this Court on 16.12.2014.

4. If the learned Additional Sessions Judge had made any order even by exercising suo-moto power of revision which is contrary to the aforesaid order made by this Court, that order does not remain in existence. This Court has not only the revision power, but it has supervisory power under section 483 of Cr.P.C. There is also the power under section 482 of Cr.P.C. and there is the power of issuing writs. Thus, the power of this Court is superior in nature. In view of the power exercised by this Court and in view of the bar created under section 362 of Cr.P.C. to review that order, this Court holds that it is not possible to recall the order made by this Court in the past. For practical purpose, it needs to be presumed that the order made by the learned Additional Sessions Judge is set aside by this Court by aforesaid order.

5. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

ssc/