

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL WRIT PETITION NO. 785 OF 2012

Maharashtra State Electricity
Distribution Company
through Mr. _____,
Assistant Vigilance Officer
having office at Aurangabad ...Petitioner

VERSUS

- 1] The State of Maharashtra,
- 2] Asian Electronics Ltd.,
A Company registered under the
Companies Act, 1956 having its
Office at D/11, Road No. 28,
Wagale Industrial Estate, Thane,
District Thane,
- 3] Shri Jinendra Ratilal Shah,
aged 51 years, Executive Director,
Asian Electronics Ltd., residing at
Krishnabad, 4th Floor,
43, Bhulabhai Desai Road,
Mumbai 400 026 ...Respondents

.....
Shri Nagendra Rai, Senior Counsel i/b
Shri Rahul Sinha, advocate for petitioner
Shri V.D.Godbharle, A.P.P. for respondent no.1
Shri V.S.Badakh, advocate for respondent nos. 2 and 3
.....

CORAM : V.M.DESHPANDE, J.

DATED : 28th January, 2015

ORAL JUDGMENT : -

1] Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties heard finally.

2] Heard Shri Nagendra Rai, learned Senior counsel with Shri Rahul Sinha, advocate for the petitioner, Shri V.D.Godbharle, learned Additional Public Prosecutor for respondent no.1 and Shri V.S.Badakh, learned counsel for respondent nos. 2 and 3.

3] In view of the order passed by this court on 3.12.2014, the investigating officer Mrs. Thorat, Assistant Police Inspector, Police Station Chikalthana, Aurangabad has filed the affidavit and has tendered the apology for not filing the affidavit in time, the same is accepted.

4] The grievance of the petitioner is that without giving any hearing, the learned Magistrate has accepted the 'C' summary. It is to be noted that in the present case though it is prayed that the learned Magistrate has accepted the 'C' summary without issuing notice, however, factually it is not correct. The investigating officer has filed 'A' summary before the learned Magistrate, which was accepted by the learned Magistrate without issuing any notice to the present petitioner who is the first informant.

5] Be that as it may, the investigating officer has further investigated the matter and has filed 'C' summary before the learned Magistrate on 12.1.2015. To that effect the statement is made in the affidavit.

6] Since the 'C' summary is filed by the investigating officer before the learned Magistrate in connection with Crime No. 56 of 2007 in the court of Judicial Magistrate, First Class, Court No. 14, Aurangabad, it is obligatory on the part of the learned Magistrate to issue notice of such 'C' summary to the first informant and should give an opportunity of hearing to the first informant.

7] In that view of the matter, Criminal Writ Petition is allowed. The order passed by the learned Magistrate to accept 'A' summary is set aside. The learned Magistrate, after giving opportunity of hearing to the first informant, shall decide as to whether 'C' summary filed by the investigating officer is to be accepted or not.

8] With the above observations, Criminal Writ Petition is disposed of. Rule is made absolute accordingly.

[V.M.DESHPANDE, J.]