

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

CRIMINAL WRIT PETITION NO. 1019 OF 2011

Maharashtra State Electricity
Distribution Company
through Mr. Damodar Govind Taide,
Assistant Vigilance Officer
having office at Aurangabad

...Petitioner

VERSUS

- 1] The State of Maharashtra,
(Dharangaon police station)
- 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

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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
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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] The grievance of the present petitioner Maharashtra State Electricity Distribution Company Limited, the first informant, is that without giving an opportunity of hearing, the learned Magistrate has passed the order on 22.10.2010 and thereby accepted the 'C' summary filed by the Investigating officer in Crime No. 36 of 2007 for the offences punishable under Sections 420, 405, 409, 468 of the Indian Penal Code.

4] The submission of the learned Senior counsel is that it was obligatory on the part of the learned Magistrate to issue notice to the Writ Petitioner, since the offence was registered on the basis of the first information report lodged by the petitioner. Therefore, according to him, acceptance of 'C' summary without issuing notice to the Writ Petitioner is in breach of principles of

natural justice.

5] It is an admitted position on record that the Writ Petitioner is the first informant and on the complaint of the Writ Petitioner the offence was registered against the accused persons named in the first information report, who are respondent nos. 2 and 3 before this court. The investigating officer has filed 'C' summary, however, the learned Magistrate has accepted the same without giving opportunity of hearing to the first informant.

6] Merely because 'C' summary is filed, it is not obligatory on the part of the learned Magistrate to accept the same. However, at the same time, when 'C' summary is filed, it is incumbent upon the learned Magistrate to issue notice to the first informant and to hear him and take the decision in accordance with law.

7] Learned Additional Public Prosecutor has rightly pointed out that the course adopted by the learned Magistrate is alien to the administration of justice.

8] In view of the admitted position of not granting opportunity and not issuing notice to the first informant, the order dated 22.10.2010 passed by the learned Magistrate

accepting 'C' summary cannot stand to the scrutiny of law.

9] In that view of the matter, Writ Petition is allowed. The order, dated 22.10.2010 passed by the learned Judicial Magistrate, First Class, Dharangaon in Crime No. 36 of 2007 is hereby set aside. The learned Magistrate is directed to issue notice of 'C' summary to the present petitioner and should grant the opportunity of hearing to the Writ Petitioner and shall decide the matter in accordance with law.

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

[V.M.DESHPANDE, J.]

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