

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

CRIMINAL WRIT PETITION NO. 1099 OF 2011

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

VERSUS

- 1] The State of Maharashtra,
(Badnapur 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

.....
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] The petitioner Maharashtra State Electricity Distribution Company Limited, through its officers filed the first information report with police station Badnapur, District Jalna. Since the case was disclosing a cognizable offence, crime was registered vide Crime No. 97 of 2007 on 6.2.2007.

4] The investigating officer, after completion of investigation filed 'C' summary report in the court of learned Magistrate vide No. CF-12 of 2009. The learned Judicial Magistrate, First Class, Badnapur passed an order on 8.7.2009 thereby issuing notice to the first informant. In pursuance to the said notice, the present petitioner/first informant filed the protest petition on 21.4.2010 and pointed out as to why 'C' summary

should not be accepted.

5] The contention of the learned Senior counsel is that though the notice was issued and in pursuance to the said notice though the protest petition was filed on behalf of the present petitioner/first informant, an opportunity of hearing was not afforded to the present petitioner and the order, dated 11.8.2011, by which the learned Magistrate accepted 'C' summary, was passed.

6] I have perused the impugned order. There is no dispute that after the protest petition was filed by the present Writ Petitioner, the learned Magistrate did not grant opportunity of hearing to the present petitioner.

7] It was incumbent on the part of the learned Magistrate to give an opportunity of hearing to the first informant. Further, perusal of the impugned order shows that it is passed in most cryptic manner. The learned Magistrate has not supplemented any reasons as to why the Magistrate is accepting the 'C' summary. The reasons by the court show the thought process of the learned Magistrate as to what weighed in his mind while passing the order. The order lacks reasoning. Hence, the said order cannot stand to the scrutiny of law.

8] In that view of the matter, present Writ Petition is allowed. The order, dated 11.8.2011, by which the learned Magistrate accepted 'C' summary, is hereby set aside. The matter is remanded back to the learned Judicial Magistrate, First Class, Badnapur, who shall give opportunity of hearing to the petitioner/first informant and shall decide the fate of 'C' summary in accordance with law.

9] Rule is made absolute in the above terms.

[V.M.DESHPANDE, J.]

dbm/crwp1099.11