

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 308 OF 2015

Mr. Janak S. Doshi

... Petitioner.

V/s.

The State of Maharashtra & Ors.

... Respondents.

Mr. P.D. Prasadrao a/with Amey Deshande, Advocate for the Petitioner.

Mr. Janak S.Doshi, Petitioner is present in person.

Mr. V. B. Konde-Deshmukh, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 02 FEBRUARY, 2015

P.C. :

1 Heard learned counsel Mr. Prasadrao for the Petitioner.

2 Perused the impugned order dated 29th November, 2014 passed by the Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai in C.C.No. 01/PW/2004. The charge-sheet was filed in the court after investigation of the complaint case filed by the petitioner in the court of Magistrate. The complaint was sent to the police for investigation under section 156(3) of the Criminal Procedure Code. It is submitted by the learned Advocate Mr. P. Prasadrao for the Petitioner that the chargesheet was filed after initial investigation and that the

supplementary charge-sheet had also been filed after further investigation.

3 The impugned order has been passed on the application filed by the petitioner before the learned trial Magistrate, asking the Magistrate to take cognizance of the fact that the property which is subject matter of RAE Suit No.325/745 of 1993, pending in the court of Small Causes Court, Mumbai, was seized during the course of the investigation of the crime registered on the said complaint made by the Petitioner. The prosecution was directed to file reply. Reply was filed by the prosecution. In this regard, it may be noted here that if the property is seized during the course of investigation and if it is part of the investigation and further if it is a part of the chargesheet or supplementary chargesheet filed in the court of Metropolitan Magistrate, it was not necessary for the Petitioner to move such an application before the Magistrate. In my opinion, the application was totally mis-conceived and not necessary. As already stated, if the property is attached and if the record in that respect already forms a part of the chargesheet, the Magistrate could not have passed the order as prayed.

4 Therefore, it follows that in the present petition, no order can be passed except to dismiss the petition. Since this court has opined that the application filed before the

Magistrate was mis-conceived and was not necessary and despite rejection of the said application, the petitioner has chosen to move this petition, this court feels that a cost of Rs. 1000/- should be imposed on the petitioner.

5 Petition stands dismissed. A cost of Rs. 1000/- imposed on the petitioner to be paid in the office of Registrar (Judicial-I).

(JUDGE)

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