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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1511 OF 2015**

The Walkeshwar Triveni Cooperative Hsg. Soc. Ltd. Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Smt. Anupama Shah i/by the Laureate for the petitioner.

Smt. A.A. Mane, A.P.P. for the State.

Mr. V. Mannadiar i/by M/s. Mannadiar & Company for respondent no. 2.

**CORAM : M.L. TAHALIYANI, J.
DATED : JUNE 23, 2015**

P.C.

Admit. Heard finally.

2. The petitioner is a cooperative housing society situated at Walkeshwar, Mumbai. Respondent no. 1 Kirit Kapadia has filed Criminal Complaint against respondent no. 3 Dinesh Sheth for the alleged offences punishable under Section 465, 467, 468 and 471 of Indian Penal Code. Respondent nos. 4, 5 and 6 are not necessary parties to the present petition. Therefore, their names are directed to be deleted. Respondent No.2 Kirit Kapadia has alleged in the complaint before the Magistrate that respondent No. 3 Dinesh Sheth had written a letter to the Deputy Registrar of "D" Ward dated 5th May 2012. It is stated that respondent no. 3 ceased to be Secretary from 14th December, 2011 and therefore, he had no authority to

write letter dated 5th May,2012 in the capacity of Secretary. It is alleged that respondent no. 3 had therefore, committed offence punishable under sections 465, 467, 468 and 471 of the Indian Penal Code. Respondent no. 3 does not deny writing of letter. It is submitted by him that the letter was written by him in the capacity of Ex-Secretary of the society. The letter indicates so. However, this issue will have to be examined by the Magistrate when the complaint is being heard. The issue before the court today raised by the petitioner is that the petitioners have been called upon by the Magistrate to produce "I" Register of the society which contains details of the members in respect of their addresses and other personal details. It is submitted that the "I" Register was not at all necessary for adjudicating the issue raised before the Magistrate. In any case, "I" register has been produced before the Magistrate and copies thereof had been provided to respondent no. 2.

3. After hearing the learned counsel Ms. Shah for the petitioner and learned counsel Mr. Mannadiar for respondent no. 2 and respondent no. 3 in person, I have come to the conclusion that the "I" register was not relevant document to decide the issue raised before the Magistrate in the criminal complaint. I really fell to understand as to why the Magistrate has directed the petitioner to produce the said register. The apprehension of the petitioner is that the details of the register are now being used by respondent no. 2 for some ulterior motives and he is asking the Magistrate to issue summons to all the persons whose names are mentioned in "I" register.

4. As far as prayer clause in the petition is concerned, it has become infructuous inasmuch as "I" register has been produced before the Magistrate. However, the Magistrate is required to be cautioned that he

should be very careful while issuing summons to the witnesses on the basis of "I" register. The Magistrate shall realize that unnecessary summoning the witnesses is unnecessary harassment to them which can not be compensated later on. He shall therefore, be careful while issuing summons to the witnesses at the instance of respondent no. 2 in Criminal Complaint Case No. 94/SW/2012.

5. The petition has therefore, become infructuous and no further relief can be granted. The petition is dismissed accordingly.

(JUDGE)