

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

**CRIMINAL WRIT PETITION NO. 1757 OF 2014**

Subhash Dada Mali

..Petitioner

v/s.

M/s. Shivraj Service Station  
& Ors.

..Respondents

Ms. Anusha Amin i/b. Sandesh Patil for the Petitioner.

Mr. Kuldeep V. Nikam i/b. Vaibhav Gaikwad, for the Respondent.

Mrs. R.V.Newton APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.  
DATED : OCTOBER 28, 2015.**

**P.C.**

1. Heard learned Counsel for the petitioner and the respondent.

The petitioner herein is accused in C.C.No.131 of 2004 pending on the file of the learned Judicial Magistrate, First Class, Satara. He has challenged the order dated 18.12.2013 whereby the learned Magistrate has allowed the application for amendment and thereby permitted the complainant to amend the name of accused no.2 from Mohan Sakharam Mali to Mohan @ Subhash Sakharam@ Dada Mali.

2. A perusal of the impugned order reveals that the learned

Magistrate has allowed this application merely because no say was filed. Needless to state that the learned Magistrate was required to decide the application on merits, irrespective of the fact whether the say was filed or not. The impugned order was passed mechanically without application of mind. Hence the same cannot be sustained. The impugned order is therefore set aside and the matter is remanded back to the Magistrate to decide the application in accordance with law.

**(ANUJA PRABHUDESSAI, J.)**