

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

CRI. WRIT PETITION NO. 1761 OF 2014

Manish Karsandas Ved

... Petitioner.

V/s.

The State of Maharashtra

... Respondent.

Mr. Ghanshyam Upadhay with Jyoti Khade i/by Law Juris,
Advocate for the Petitioner.

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

CORAM : M.L.TAHALIYANI,J.

DATE : 20th FEBRUARY, 2015

P.C. :

1 Heard learned counsel Mr. Upadhay appearing on behalf of the Petitioner and the learned additional public prosecutor Mr. Konde -Deshmukh for the State of Maharashtra.

2 Perused the impugned order. The petitioner has filed a complaint before the learned Magistrate for the offences punishable under sections 384,385, 388,389,420, 465, 467, 468,471, 474 r/w. section 120-B of the Indian Penal Code and section 82 of the Registration Act, 1908 and had prayed for sending the complaint to the police for taking cognizance and for registration of FIR. The learned Magistrate, after having heard the learned counsel for the complainant/petitioner, has

passed a very detailed order, rejecting the complaint mainly on the ground that writ petition is pending in the High Court filed by the petitioner.

3 I am informed that the writ petition is on the civil side. Therefore, the pendency of the writ petition should not have come in the way of the learned Magistrate. More-over, the learned Magistrate has considered so many issues which were irrelevant to the prayer of the petitioner. The order needs to be set aside and it is necessary to direct the learned Magistrate to pass a fresh order to decide as to whether the complaint should be sent to the police or otherwise.

4 Hence, I pass following order.

- i. The order passed by the learned Magistrate dated 12th February, 2014 is set aside.
- ii. The learned Magistrate is directed to hear the learned counsel for the complainant.
- iii. The learned Magistrate to decide as to whether the complaint can be sent to police under section 156 (3) of the Cr.P.C..

iv. Order on the complaint shall be passed within a period of two weeks from the date of the receipt of this order.

5 Writ Petition stands disposed of accordingly.

(JUDGE)

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