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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1891 OF 2013**

Hrishikesh Bharatkumar ShahPetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. Javed R. Shaikh, advocate for the petitioner.
Mrs. S. V. Sonavane, APP for the State.
Mr. H. B. Takke, advocate for respondent No.9.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 16th February, 2015.

P.C.:

Heard learned counsel and learned APP appearing for the respective parties.

2. This petition is filed under Article 226 of the Constitution of India for quashing the order 28th February, 2013 passed by learned JMFC, Khalapur in RCC 95 of 2012 accepting report under Section 169 of the Code of Criminal Procedure, 1973.

3. The petitioner is the complainant at whose instant C.R.No.14 of 2012 came to be registered with Khalapur Police Station for offences punishable under Sections 420, 465, 468, 471, 406 read with Section 34

of the Indian Penal Code, 1860. The investigation agency after completion of the investigation filed a charge-sheet against five accused and so far as other six accused are concerned, Section 169 report came to be filed. The learned Magistrate thereafter issued notice to the petitioner/original complainant and on his failure to appear, accepted the report under Section 169.

4. If the petitioner is aggrieved, he has a remedy to file revision against the impugned order accepting report under Section 169. The petitioner, is also at liberty, to apply before the Magistrate under Section 173(8) for further investigation. Both the remedies are alternative and efficacious and, therefore, we are not inclined to entertain the petition.

5. Mr. Shaikh, learned counsel for the petitioner relied upon the decision of the Apex Court in **Rubabbuddin Sheikh versus State of Gujarat (2010) 2 SCC 200** and **Manoj Narain Agrawal versus Shashi Agrawal and ors. (2009) 6 SCC 385** in order to contend that this Court should entertain this petition. We have gone through the decision of the Apex Court in **Rubabbuddin Sheikh (supra)**. In this case, the High Official of State Police (Gujarat) were themselves involved and the investigation had not been conducted properly the the State Police. In **Manoj Narain Agrawal(supra)**, the Magistrate had already granted the complainant's prayer under Section 173(8) for further investigation. The

ratios of both the decisions cited above, therefore, cannot be made applicable to the facts and circumstances of the present case.

6. In the above circumstances, we are not inclined to invoke the extraordinary jurisdiction conferred upon this Court under Article 226 of the Constitution of India. The writ petition, therefore, stands dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)