

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2603 OF 2015

Ravish Rathi.

..Petitioner.

Versus

State of Maharashtra.

..Respondent.

Mr. Ghanshyam Upadhyay and Ms. Priyanka Jangid i/b Law Juris
for the Petitioner.

Mr. K. V. Saste, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 8, 2015.**

P. C. :

1. Heard. By this petition under Article 227 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973, the Petitioner has challenged the legality and validity of the order dated 1st July 2015 passed by the learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai whereby request made by the Petitioner for furnishing the certified copy of FIR No.45 of 2015 registered with Amboli Police Station, which was subsequently transferred to DN Nagar Police Station, is rejected. Copy of the impugned order was not annexed to the petition as the same was not furnished to the Petitioner. Today, during the course of arguments, learned

Counsel appearing for the Petitioner placed on record copy of the order.

2. The Petitioner is arraigned as an accused. The Petitioner's application for certified copy of the said FIR is rejected on two grounds, namely, that FIR has been registered by Amboli Police Station which does not come under the jurisdiction of the concerned Magistrate and secondly, that xerox copy of the FIR has been filed by the police with the Court. Learned Metropolitan Magistrate observed that certified copy of the carbon copy could have been given, however, certified copy of the xerox copy cannot be given.

3. Learned Counsel appearing for the Petitioner submitted that earlier also the Petitioner had preferred similar application, however, it was rejected pointing out Circular dated 9th October 2014 issued by the office of Chief metropolitan Magistrate, Mumbai wherein it is provided that uncertified copies of documents shall not be issued.

4. The learned Counsel submitted that in the application preferred by the Petitioner for grant of certified copy, the Petitioner has made reference to the order dated 3rd March 2015, passed by the Division Bench of this Court in Criminal Writ Petition No. 431 of 2015. He further submitted this order was specifically pointed out to the learned Magistrate during the course of arguments. The learned counsel submitted that in the light of Division Bench order, the impugned order cannot be sustained and needs to be quashed and set aside. Learned APP for the State supported the petition and submitted that in the backdrop of Division Bench order, the Petitioner's application could not have been rejected.

5. The first ground of rejection of the application that FIR is registered with Amboli Police Station shows non application of mind by learned Magistrate. The Petitioner asserts and learned APP for the State does not dispute that the said FIR was initially registered with Amboli Police Station, however, investigation was transferred to DN Nagar Police Station, which undoubtedly comes within the jurisdiction of the Court of 10th

Metropolitan Magistrate, Andheri.

6. The Division Bench of this Court in its order dated 3rd March 2015 referred to above, has after considering the provisions of para-1 of Chapter XXI of the Criminal Manual and sections 74 and 76 of the Indian Evidence Act, held that the certified copy of the FIR cannot be refused by the Magistrate merely on the ground that copy forwarded to the Magistrate by the Police Station is xerox copy. It appears that learned Magistrate is influenced by the Circular issued by the Chief Metropolitan Magistrate, being Circular dated 9th October 2014. A copy of the said Circular is placed on record. By the said circular, a direction is given to the staff of the metropolitan magistrate's Courts not to issue uncertified copies of any document. What is condemned is the practice of issuing uncertified copies of the document. Circular does not put any embargo on the issuance of certified copies of FIR.

7. We find that the impugned order is not sustainable in the teeth of the Division Bench order referred to above. It is

very distressing that learned Metropolitan Magistrate despite pointing out the Division Bench order, has chosen not to follow the principles contained therein. We hope and trust that such incidents will not take place again. In that view of the matter, writ petition is made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]