

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

rpa

**CRIMINAL APPEAL NO.676 OF 2014**

Smt.Triptra Rajkumar Sharma

.. Appellant

Vs.

Mohan alias Mohd. Ibrahim

Kulavoor & Anr.

.. Respondents

....

Mr.Vijay Chauhan, C.A. Of Appellant, present.

Mr.Deepak Thakre, A.P.P. for Respondent – State.

Ms.Shweta I. Singh, Advocate for the Respondent No.1.

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**CORAM : ABHAY M. THIPSAY, J.**

**DATED : JANUARY 14, 2015.**

**P.C. :**

Heard Mr.Chauhan, the constituted attorney of the appellant. Heard Ms.Singh, the learned counsel for the respondent no.1. Heard Mr.Thakre, the learned A.P.P. for the respondent – State of Maharashtra.

2           The appellant had lodged a report alleging commission of various offences by the respondent no.1 and one Mohan @ Ibrahim. On this report, a case in respect of offences punishable under Sections 406 of IPC, 420 of IPC read with Section 34 of the IPC, was

registered by Sakinaka police station. The respondent no.1 and the other accused moved the Court of Sessions for anticipatory bail. The Court of Sessions granted anticipatory bail to the respondent no.1 and also to the co-accused. The appellant, thereafter, made an application before the Court of Sessions praying that an inquiry, as contemplated under Section 340 of the Code of Criminal Procedure, be held and that further appropriate action against the respondent and the said co-accused be taken. This application was rejected by the Court of Sessions by an order dated 21<sup>st</sup> January, 2014. Being aggrieved by the said order, the appellant has filed this Appeal under Section 341 of the Code of Criminal Procedure. I have gone through the Memo of Appeal. I have also gone through the order passed by the Court of Sessions, as aforesaid. I have heard Mr.Vijay K. Chauhan, the Constituted Attorney of the appellant.

3           The basic grievance of the appellant is that anticipatory bail was wrongly secured by the respondent no.1. The claim is that the respondent no.1 has made several false statements while securing anticipatory bail.

4           It is not possible to see as to how it can be said that any forged document was tendered before the Court of Sessions by the

respondent no.1, while securing anticipatory bail. It is also not possible to see as to how the respondent no.1 can be said to have given false evidence, or fabricated false evidence.

5           The real grievance of the appellant seems to be that by misleading the Court and by making misleading submissions, the respondent no.1 secured anticipatory bail from the Court of Sessions which he did not deserve on considering the merits of the case against him. If that is so, the proper remedy for the appellant would be to approach the Court of Sessions itself, or even this Court, seeking cancellation of the bail granted the respondent no.1. The learned Additional Sessions Judge was right in making an observation to the same effect.

6           Holding of an inquiry under Section 340 of the Code of Criminal Procedure, is discretionary. Since there was no categorical assertion of any particular document being forged, and since it could not be said that any such documents was tendered or given in evidence, as the matter was only in respect to grant of anticipatory bail, the impugned order cannot be faulted.

7           Consequently, the Appeal is dismissed.

8           It is made clear that the appellant shall be at liberty to take appropriate steps for cancellation of bail granted to the respondent no.1, if so desired.

**(ABHAY M. THIPSAY, J.)**