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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3393 OF 2015

Pravin Viram Satra

..Petitioner.

V/s.

State of Maharashtra and Anr.

..Respondents.

Mr.S.V.Marwadi i/b. K.S.Garg for the petitioner.

Mrs.M.H.Mhatre, A.P.P. for the respondent-State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 26TH AUGUST, 2015

P.C. :-

1. Heard Mr.Marwadi, the learned counsel appearing for the petitioner and Mrs.Mhatre, the learned A.P.P. for the respondent-State.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks to challenge the Chapter proceedings initiated against him under Chapter VIII of Criminal Procedure Code, 1973.

3. Mr.Marwadi submits that the said proceedings are initiated without issuing separate order under Section 111 of the

Criminal Procedure Code and, therefore, the same are vitiated. He relies upon the decision of the Division Bench of this Court in Criminal Writ Petition No.748 of 2013 passed on 23rd August, 2013. He submits that separate view is taken by another Division Bench of this Court in Writ Petition No.1218 of 2014 by order dated 23rd December, 2014 however the issue is referred to a larger Bench.

4. At Exhibit-B the petitioner has annexed a order of the Special Executive Magistrate, Borivali Division, Mumbai passed on 7th August, 2015. Perusal of this order reveals that same is issued under Section 111 of the Criminal Procedure Code. The petitioner was also issued a separate summons under Section 113 of the Criminal Procedure Code and the said summons accompanied order under Section 111 of the Criminal Procedure Code. In Criminal Writ Petition No.748 of 2013, there was no separate order under Section 111 of the Criminal Procedure Code. However, in the present case, we find that there is a separate order under Section 111 of the Criminal Procedure Code and, therefore, the facts of the present case are distinguishable from the facts of Writ Petition No.748 of 2013.

5. Mr.Marwadi apprehends that the Special Executive Officer without any inquiry will ask the petitioner to submit bond. The learned A.P.P. submits that the petitioner will be given an

opportunity of hearing and thereafter, appropriate order will be passed. Even otherwise, it is contemplated under the procedure that the opportunity is required to be given to the noticee and thereafter, final order will have to be passed.

6. Mr.Marwadi submits that the next date of hearing of the Chapter Proceedings is tomorrow i.e. 27th August, 2015. He submits that some time may be given to the petitioner. The petitioner is at liberty to apply for adjournment and in the event such an application is made the concerned authority shall consider the same sympathetically.

7. Subject to above, the petition is dismissed.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)