

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

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CRIMINAL APPLICATION NO.946 OF 2014

Charanjeet Chanderpal	.. Applicant
Vs.	
The State of Maharashtra & Ors.	.. Respondents

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Mr.Charanjeet Chanderpal, petitioner in-person in APL 946/2014
Mr.Mahesh Vaswani, Respondent No.3 in-person in APL 946/2014 .
Mr.Ajay Patil, A.P.P. for Respondent No.1 – State.
Mr.Farooque Ansari, Advocate for Respondent no.2 in APL 946/2014.
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**CORAM : S.C. DHARMADHIKARI &
SUNIL P. DESHMUKH, JJ.**

DATED : MARCH 11, 2015.

P.C. :

We have heard Mr.Chanderpal, in person. The petitioner who is appearing in person seeks quashing and setting aside of an order passed on 2nd September, 2014, by the Metropolitan Magistrate. A copy of this order has been annexed to this paper book and the same is to be found as Annexure-R (pages 325 to 330). The Additional Chief Metropolitan Magistrate 37th Court, Esplanade, Mumbai has on the report which has been filed before him by the concerned police station directed as under:

“14 Whenever after investigation, such summary is submitted, then the court can accept or reject or even direct further investigation under Section 156(3) of Cr.P.C. In view of all above mentioned reasons, present 'B' Summary on the available record could not be accepted. Similarly, for those reasons, proper investigation needs to be made and, therefore, the Senior P.I. of Azad Maidan Police Station is directed to make further investigation of FIR No.250/2010 under Section 156(3) of Cr.P.C. in the background of reasons mentioned supra and submit report after investigation as per law.”

2 The petitioner is aggrieved and dissatisfied by this direction because in his submission there is enough material to indicate that he is not *prima facie* guilty of any cognizable offence. The report filed by the police should have therefore been accepted and the case closed by the Additional Chief Metropolitan Magistrate. He has erred in law in ignoring certain factual materials and in that regard he invites our attention to an order passed by the Division Bench of this Court in Criminal Writ Petition No.3672 of 2010. He also invites our attention to the “B” Summary Report, copy of which is also annexed to the paper book from page nos.96 to 99. He would submit that there is a categorical observation in the Report which

would indicate that the case against the petitioner is not fit enough to proceed. There is absolutely nothing on record which would implicate the petitioner of an offence and particularly punishable under Section 509 of the Indian Penal Code. The learned Metropolitan Magistrate, therefore, should have closed the matter.

3 We have perused the relevant part of the paper book to which our attention has been invited. We have equally perused a copy of the Report and some materials including the details of a call made on mobile (page no.161 of the paper book).

4 Upon a reading of the order passed by the learned Additional Chief Metropolitan Magistrate, we are of the view that this Court cannot proceed on the footing that the report of the concerned police station has been completely rejected by the Additional Chief Metropolitan Magistrate. He has on perusal of the Report and the relevant materials found that the “B” Summary Report at present cannot be accepted. There is necessity of carrying out certain investigation in First Information Report No.250 of 2010, registered at the Azad Maidan Police Station. He, therefore, directed the said police station to submit a Report. We would not like to make any observations, given the fact that the learned Additional Chief

Metropolitan Magistrate 37th Court, Esplanade, Mumbai is seized of the matter. He has passed an order on 2nd September, 2014. None of the findings therein could be termed as conclusive. In the circumstances, we do not think that presently there is any prejudice to the petitioner. It could be open for the petitioner to raise all contentions as are permissible in law whenever the matter is placed before the learned Additional Chief Metropolitan Magistrate 37th Court Esplanade, Mumbai. We have no doubt in our mind that the learned Judge would hear all concerned parties and pass an order in accordance with law. He would duly consider all the objections and the complaint of the petitioner that these proceedings are nothing but intended at causing harassment and embarrassment to a professional. In the circumstances, at this stage, no case is made out for interference under Article 226 of the Constitution of India. Equally no case is made out for interference under Section 482 of the Code of Criminal Procedure either. Keeping open all contentions and for being raised by parties at an appropriate stage, we dispose of these writ petitions.

(S.P. DESHMUKH, J.)

(S.C. DHARMADHIKARI, J.)