

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1042 OF 2014

Manoj Panwar .. Applicant

Versus

State of Maharashtra .. Respondent

Mr. Sumedh Kale i/b K. H. Rajani, Advocate for the applicant
Mr. D. R. More, APP for the respondent-State

CORAM:-M.L. TAHALIYANI,J.

DATED : -09/01/2015

P.C.

Admit. Respondent waives service. By consent of
the parties heard finally.

2 Heard Mr. Kale, learned counsel for the applicant
and Mr. More, learned APP for the respondent-State.

3 Perused the impugned order. The grievance of the
applicant is that his prayer for sending the complaint u/s 156(3)
of the Cr. P. C. was rejected by the Magistrate and the

Magistrate took the cognizance of the offence and proceeded further on the complaint filed by the applicant. The impugned order can be reproduced as under:

“1) Read the complaint and perused the record.
Heard Ld. Counsel for the complainant at length.

2 The Ld. Counsel for the complainant submitted that considering the nature of offence the court may by passing an order U/S. 156(3) of Cr. P.C. Gave directions to the concerned police to make investigation. In this regard he has placed reliance on the decision in 1) 2006 DGLS 1 Mohd. Yousuf V/s. Afaq Jahan (Smt). 2) 2001 DGLS 38, Suresh Chand Jain V/s. State of Madhya Pradesh. 3) 1997 DGLS 949, Madhu Bala V/s. Sureshkumar. 4) 1970 DGLS 128 S. N. Sharma V/s. Bipen Kumar Tiwari. 5) 1976 DGLS 210 Devarapalli Lakshminarayanayana Reddy V/s. V. Narayana Reddy. 6) 2007 DGLS 2096 Sakiri Vasu V/s. State of U.P. & Ors. 7) Srinivas Gundluri & Ors. V/s. M/s. Sepco Electric Power Construction Corporation & Ors., and 8) Writ Petition (Criminal) No.68/08 Lalita Kumari V/s. Govt. of U.P. & Ors.

3 Considering the ratio of the above Citations, the

peculiar facts of the case, as well as, submission made by Ld. Counsel for the complainant, I am of the view that, particularly in the case at hand, it will be just and proper to direct the complaint to lead evidence u/s. 200 of the Code of Criminal Procedure. Accordingly I pass the following order.

ORDER

The complainant to lead the evidence u/s. 200 of the Code of Criminal Procedure.”

4 It is now very well settled that in the case of the complaint of cognizable offence, the Magistrate has a discretion either to send the complaint to police for investigation or to inquire into the complaint himself or get the inquiry done through the police. The Magistrate has in his discretion decided to proceed further u/s 202 of Cr. P.C. In my opinion, the case of the applicant is nowhere adversely affected by the said order. The applicant can be examined on oath. Let further inquiry be carried out by the Magistrate or he

may send the complaint for further inquiry to the concerned police officer. As far as the issue of production of document is concerned, the applicant is always at liberty to move the court for production of document or the documents can be collected by the police during the course of inquiry u/s 202 of Cr. P.C.

There is no merit in the application. The application stands dismissed.

(JUDGE)

md.saleem