

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

CRI. WRIT PETITION NO. 5038 OF 2014

Mr. Anil Govind Ambre ... Petitioner/Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Rishi Bhuta i/by Smt. S. S. Gaonkar & Associates, Advocate
for the Petitioner/Applicant.

Mr. Ajay Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 30th MARCH, 2015

P.C. :

1 Admit. Heard finally.

2 Heard the learned counsel for the Petitioner/
Applicant and learned APP for the State.

3 The applicant is aggrieved by the order passed by the learned Magistrate on 23rd August, 2013, sending the complaint of the complainant to the police under section 202 of the Cr. P.C. without recording a statement of the complainant on oath. On the face of it, the learned Magistrate has committed a gross error by not examining the complainant before sending the complaint to the police under section 202

of the Criminal Procedure Code. The order is, therefore, required to be set aside. Thereafter, an option will be left to the Magistrate to entertain the complaint under section 156(3) or to proceed in accordance with law under section 200 onwards of the Cr.P.C.

4 The order impugned is accordingly set aside. The Magistrate shall decide the complaint in accordance with the law, as stated herein above.

5 Writ petition stands disposed of accordingly.

(JUDGE)

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