

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO.173 OF 2015
IN CRIMINAL APPLICATION (APL) NO.591 OF 2012

(Vijay s/o Shivprasad Kedia and another vs. State of Maharashtra and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri J.B. Kasat, Advocate for applicants.

Shri V.A. Thakare, Additional Public Prosecutor for
respondent no.1.

Shri R.R. Vyas, Advocate for respondent no.2.

CORAM : A.B. CHAUDHARI AND
 P.N. DESHMUKH, JJ.

DATED : FEBRUARY 27, 2015

This is an application filed by respondent
no.2 for early hearing of the matter.

The matter was admitted and
investigation was stayed.

In the light of the decision of the Supreme
Court in Umesh Kumar vs. State of Andhra
Pradesh and another {(2013) 10 SCC 591}, we are
satisfied that stay of investigation was having

adverse impact on collection of evidence as well as investigation since material gets vanished slowly and slowly. That apart, learned Counsel for the applicants himself states that the order passed by the learned Magistrate under Section 156(3) of Code of Criminal Procedure is under challenge so also first information report registered as a sequel thereto. He further submits that since first information report has also been challenged, this Court has jurisdiction to test validity of the first information report.

We find that revision is maintainable against the order passed by the learned Magistrate under Section 156(3) of the Code of Criminal Procedure. That is obviously an effective and alternate remedy. The law is well settled that jurisdiction under Section 482 of Code of Criminal Procedure cannot be exercised by indirect method when statutory remedy of revision is available.

The submission made by Shri Kasat, learned Counsel for the applicants, that since first information report has been challenged, the order under Section 156(3) of the Code of Criminal Procedure merges into first information report is

wholly misconceived. The foundation of first information report is order under Section 156(3) of the Code of Criminal Procedure and, therefore, Shri Kasat, learned Counsel for the applicants, is putting cart before horse by making the above submission. We, therefore, dispose of Criminal Application No.591/2012 reserving liberty in favour of applicants to take such steps as are available in law. Interim order is vacated. The investigation be completed within three months from today.

At this stage, Shri Kasat, learned Counsel for applicants, prays for stay of this order. The prayer is rejected.

In view of above, Criminal Application No.173/2015 for early hearing stands disposed of.

JUDGE

JUDGE

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