

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 206 OF 2016

Shaikh Ijaj Shaikh Imam,
Age 55 years, Occu.: Business,
R/o Vidya Nagar [East],
Beed, At present R/o. Devnar Colony,
Govandi, Mumbai

.. Petitioner

VERSUS

1] The State of Maharashtra
Through Shivaji Nagar Police Station,
Beed, Taluka and District Beed

2] Shaikh Juber Shaikh Ijaj,
Age 29 years, Occu.: Nil,
R/o. Maheboob Manjil,
Viyda Nagar [East], Barshi Road,
Beed

3] Shaikh Rajiya Shaikh Ijaj,
Age 49 years, Occu.: Teacher,
R/o. Maheboob Manjil,
Vidya Nagar [East],
Barshi Road, Beed

.. Respondents

Mr. Santosh S. Jadhavar, Advocate for the petitioner
Mr. R.B. Bagul, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.
DATE : 26/02/2016

ORAL ORDER :

Rule. Rule made returnable forthwith.

With consent of learned counsel for the petitioner and

the learned A.P.P., the petition is heard finally.

2. There is no need to issue notices to respondent nos.2 and 3 in view of the fact that the learned Judicial Magistrate First Class was dealing with the application of the present petitioner for the offences punishable under section 302, 201 r/w. 34 of the Indian Penal Code to direct the concerned Police Station to take action as per the provisions of section 156(3) of the Code of Criminal Procedure for recording of the FIR against respondent nos.2 and 3.

. The petitioner has assailed the aforesaid order, as according to him, respondent nos.2 and 3 had committed offences punishable under section 302, 201 r/w. 34 of the Indian Penal Code.

3. The learned Judicial Magistrate First Class, without passing any order, as to whether the direction can be given in the set of facts or not, simply passed the order : "Keep for verification".

4. Learned counsel for the petitioner Mr. Jadhavar submits that the petitioner / complainant does not wish to lead any evidence or had no intention to get himself examined on oath or examine any witness. Therefore, relying on the ratio in the case of "**Balaji S/o Bhujangrao Suryawanshi Vs. The State of Maharashtra**" 2014 ALL MR (Cri.) 994, he submits that the impugned order be quashed.

5. Upon hearing learned counsel for the petitioner and the learned A.P.P., it is gathered that no speaking order was passed by the learned Judicial Magistrate First Class, therefore, without making any further comment on the merit of the case, the Writ Petition is allowed.

6. The impugned order of the learned Judicial Magistrate First Class dated 08/07/2015 is hereby set aside. The learned Judicial Magistrate First Class is directed to hear the petitioner and pass a reasoned order as per the due provisions of law that may be

deemed fit by the learned Judicial Magistrate First Class.

7. Rule is accordingly made absolute.

[M.T. JOSHI]
JUDGE

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