

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.656 OF 2015

Dattatraya s/o Abasaheb Ghanwat
and ors.

.. Petitioners

Versus

The State of Maharashtra and anr.

.. Respondents

Mr N.V. Gaware, Advocate for petitioners
Mr D.V. Tele, A.P.P. for respondent No.1
Mr A.R. Devakate, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 22nd March 2016

PER COURT

Heard.

2. The order dated 23rd March 2015 ordering issuance of process punishable under Sections 498-A, 323, 504, 506 of Indian Penal Code passed by learned Judicial Magistrate, First Class, Paranda, in my opinion, is not sustainable, as the same is non-speaking order and contrary to the view expressed by the Division Bench of this Court in paragraphs 30, 32 and 35 of the judgment in the matter of **State of Maharashtra Vs. Shashikant s/o Eknath Shinde** reported in **2013 ALL MR (Cri) 3060**.

2. Learned Magistrate has neither considered the ingredients of said Section and the satisfaction thereof from the evidence that is brought on record and the contents of the application. The order as such suffers from non-application of mind.

3. In view thereof, the order passed by learned Judicial Magistrate, First Class, Paranda passed on 23rd March 2015 in R.C.C. No.29/2015 is hereby set aside and the matter is restored to the file of learned Magistrate, who is directed to pass fresh orders in the matter.

4. The parties agree that they shall appear before the learned Magistrate on 16th April 2016.

(N.W. SAMBRE, J.)

vvr