

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.693 OF 2016

Kumar s/o Dattu Dhokale,
Age-53 years, Occu:Business (Goldsmith),
R/o-Lane No.2, Near Jain Mandir Lane,
Dhule, Tq. & Dist-Dhule

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Azadnagar Police Station,
Dhule, Tq. & Dist-Dhule,
- 2) The Superintendent of Police,
Dhule, Dist-Dhule,
- 3) Police Inspector, (Investigating Officer),
Azadnagar Police Station, Dhule,
Tq. & Dist-Dhule.

...RESPONDENTS

...

Mr.R.S. Shinde Advocate h/f. Mr. N.L. Choudhari
Advocate for Petitioner.
Mr.S.Y. Mahajan, Additional Public Prosecutor
for Respondents.

...

**CORAM: S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATE : 17TH NOVEMBER 2016

ORDER :

. Heard the learned counsel appearing for the Petitioner and learned A.P.P. for the State.

2. It appears that present Petitioner, who is original complainant, filed the complaint seeking direction under Section 156(3) of the Code of Criminal Procedure to the concerned police officer for investigation. The concerned Court passed the order and directed the concerned police station in-charge to conduct investigation and accordingly after completing the investigation, charge-sheet came to be filed before the 2nd J.M.F.C. Dhule. The said case was numbered as R.C.C. No.784 of 2012. The present Petitioner filed an application at Exhibit 19 for re-investigation of the complaint. The concerned Court rejected the application relying upon the exposition of law in the case of **Reeta Nag vs. State of West Bengal and others**, reported in 2010

Cri. L.J., 2245, observing that the Court of J.M.F.C. has no jurisdiction to direct re-investigation of the complaint. Being aggrieved by the said order, this Petition is filed by the Petitioner.

3. Learned counsel appearing for the Petitioner and learned A.P.P. appearing for the State jointly submits that ends of justice would be met in case the parties are allowed to file application before the Court of J.M.F.C. for further investigation and upon filing such application, concerned Court may be directed to take the decision on the said application, expeditiously.

4. We have considered the submissions of the learned counsel appearing for the Petitioner and learned A.P.P. appearing for the State. In the case of **Reeta Nag vs. State of West Bengal and others**, supra, the Supreme Court while considering

the jurisdiction of the Judicial Magistrate First Class observed in Para 19 that once a charge-sheet is filed under Section 173(2) of Cr.P.C. and either charge is framed or the accused are discharged, the Magistrate may, on the basis of a protest petition, take cognizance of the offence complained of or on the application made by the Investigating Authorities permit further investigation under Section 173(8) of Cr.P.C.

5. In that view of the matter, in case the prosecution agency and Petitioner files the application before the Judicial Magistrate within two weeks from today, we direct the Judicial Magistrate to take decision on the said application on its own merits and as expeditiously as possible, however, within two weeks after filing of such application, in the light of the observations made by the Supreme Court in Para 19 of the Judgment in the case of **Reeta Nag vs. State of West Bengal and others**, supra.

6. In the light of above, the Writ Petition stands disposed of.

. Parties to act upon authenticated copy of this order.

[K.K. SONAWANE, J.]

asb/NOV16

[S.S. SHINDE, J.]