

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1275 OF 2015

Subhash S/o Digambarrao Bhandare Petitioner

Versus

The State of Maharashtra and others Respondents

Mr.V.C. Patil advocate for the petitioner
Mr.M.M. Nerlikar, APP for Respondents

CORAM : R.M. BORDE, J &
K.L. WADANE, JJ

(Date : 6th APRIL, 2016.)

PER COURT :-

1 The petitioner is praying for issuance of direction to the Police official to conduct *de novo* investigation in crime No.161/94 registered at Police Station, Vajirabad.

2 It appears that on presentation of the report by the investigating agency, Regular Criminal Case No.309/2015 has been registered and same has been assigned to the Chief Judicial Magistrate, Nanded. It does appear that, the petitioner himself has presented a complaint to the C.J.M. which has been registered as Miscellaneous Criminal Application No.161/2015 against such of those accused, who are not impleaded in RCC No.309/2015. The

complaint presented by the petitioner, as well as the report presented by the Police authorities, which has been registered as RCC No.309/2015 relate to the same series of transactions. The petitioner contends that, the accused named in the complaint, lodged by him shall be impleaded in RCC No.309/2015 pending before the C.J.M., Nanded. The request made by the petitioner does not deserve consideration and is contrary to specific provisions of Code. Section 210 of the Cr.P.C. Prescribes procedure to be followed if there is a complaint case and Police Investigation in respect of the same offence. Sub-section (3) of section 210 requires the Magistrate to proceed with the enquiry or trial which has been stayed by him in accordance with sub-section (1) of section 210, if the Police report does not relate to any accused in respect of which the magistrate has taken cognizance upon the police report.

3 In the instant matter, though the procedure within contemplation of section 210(1) is not attracted, the Magistrate is required to proceed with the enquiry or trial in respect of the complaint case presented by the petitioner. In the circumstances, it is desirable for the learned Sessions Judge to assign the private complaint as well as RCC No.309/2015 to the same Court. Sessions Judge is expected to take appropriate steps in that

regard. The Magistrate dealing with the complaint, presented by the petitioner shall deal with the same in accordance with provisions of law.

4 In view of above, no further direction need be issued.

5 Criminal writ petition stands disposed of.

(K.L. WADANE, J)

(R.M.BORDE, J)

vbd