

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

907 CRIMINAL WRIT PETITION NO. 1538 OF 2016

NANABHAU S/O NAMDEO RAUT

VERSUS

**THE STATE OF MAHARASHTRA
& ANR.**

.....

Mr. R.M.Deshmukh, Advocate for Petitioner.

Mr. P.N.Kutti, A.P.P. for R – 1 - State.

.....

CORAM : Z.A.HAQ, J.

DATE : 30th NOVEMBER, 2016

.....

ORAL ORDER :

1. Heard Mr. R.M.Deshmukh, learned Advocate for the Petitioner.

2. The petitioner/accused has assailed the order passed by the learned Judicial Magistrate First Class, Ambad, District Jalna directing impleadment of two accused and issuance of process against them for

the offences punishable u/ss 406 and 420 read with section 34 of the Indian Penal Code.

3. The submission on behalf of the petitioner is that the complaint is filed in 2008 and now in 2016, the complainant has moved an application seeking amendment to the complaint which is not permissible in law and the learned Magistrate has failed to appreciate this aspect and, therefore, the impugned order passed by him is unsustainable. It is submitted that there is no provision which enables the complainant to seek amendment to the complaint. The learned Advocate for the petitioner has argued that the trial Magistrate has wrongly applied the ratio of the Judgment given in the case of **S.R.Sukumar Vs. S.Sunaad Raghuram reported in (2015) 9 Supreme Court Cases – 609** overlooking the distinction in the facts of that case and the present case.

4. I am not inclined to consider the challenges raised on behalf of the original accused and to

entertain this petition at the behest of the original accused.

5. Criminal Writ Petition is dismissed. No costs.

[Z.A.HAQ, J.]

KNP/Cr.W.P. 1538.2016