

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.542 OF 2016

Uttam Manulal Kale .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

WITH

CRIMINAL APPLICATION NO.595 OF 2016
(For Intervention)

IN

CRIMINAL APPLICATION NO.542 OF 2016

Sudhakar Shankarrao Suradkar .Intervenor

IN THE MATTER BETWEEN

Uttam Manulal Kale .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr.R.R.Salvi i/b. Ms Suvarna Telgote, Advocate,
for the Applicant

Ms Anamika Malhotra, APP, for the Respondent
No.1 – State

Mr.A.A.Gore, Advocate, for the Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 07.10.2016

P.C.

. Heard learned counsel for the respective parties.

2. By this Application, the Applicant has impugned the order dated 29.03.2016 passed by the learned Metropolitan Magistrate, 61st Court, Kurla, Mumbai, on an Application filed by the Senior Police Inspector, Matunga Police Station, Mumbai dated 29.03.2016. The order impugned reads thus :-

“Perused the Application. The documents be returned to the I.O. as prayed.”

3. Learned counsel for the Applicant states that the learned Magistrate could not have returned the original documents i.e. charge-sheet which was in the custody of the Court to the investigating officer. He submitted that the learned Magistrate had clearly erred in returning the original documents to the

investigating officer. Learned counsel for the Applicant has no objection to further investigation under Section 173(8). His objection is only to handing over of original documents to the investigating officer.

4. Learned APP also submits that the learned Judge should not have given the original documents to the investigating officer. She submits that what could have been permitted is taking xerox copies of the original documents and not the original documents. She submits on instructions of the investigating officer, who is present in Court, that the officer will return the original documents to the concerned Court on **10.10.2016 at 3.00 p.m.** She submitted that the police are investigating the said case under Section 173(8) of the Code of Criminal Procedure which is permissible in law.

5. Learned counsel for the Intervenor also does not dispute this factual position i.e. that original charge-sheet should be with the concerned Court.

6. Accordingly, the Application is allowed to the extent that the impugned order dated 29.03.2016 is quashed & set aside. The Senior Police Inspector, Matunga Police Station, Mumbai, to handover the original documents back to the concerned trial Court. Needless to state that the police are permitted to investigate under Section 173(8) of the Code of Criminal Procedure. Investigation under Section 173(8) of the Code of Criminal Procedure is expedited at the request of the parties.

7. The Application is allowed on the aforesaid terms.

8. In view of disposal of the Application, the Intervention Application No.595 of 2016 does not survive and the same stands disposed of accordingly.

(REVATI MOHITE DERE, J.)