

1 Respondent no.1 had filed Criminal Application
No.41/SW/2011 in the Court of Additional Chief Metropolitan
Magistrate, Bandra alleging commission of offence punishable
under Sections 420, 463, 465, 467, 468, 471 and 474 read with
34 and 120-B Indian Penal Code in respect of Will dated 10th
January, 2006 produced by them in the civil proceedings and
sought direction under Section 156(3) Criminal Procedure Code

("Cr.P.C." for short) to the Senior Inspector, Khar Police Station to register an F.I.R. and investigate into the same. The trial court, by its order dtd. 6th September, 2011 refused investigation under Section 156(3) Cr.P.C. with an observation that no case is made out for sending the complaint for the investigation and directed the complaint to be put up for verification.

2 Being aggrieved by the order, respondent no.1 preferred Revision Application being Criminal Revision Application No.1121 of 2011 to the Sessions Court. By the impugned order dtd. 8th May, 2015, the Sessions Court allowed the Revision Application and remanded the matter for reconsideration and re-hearing by the trial court of the application. The petitioner herein is respondent no.2 to the Criminal Revision Application and the proposed accused. He challenges the order contending that it was entirely the discretion of the learned Magistrate either to direct investigation under Section 156(3) Cr.P.C. or take cognizance under Section 200 Cr.P.C. and once the discretion has been exercised, the Sessions Court could not have interfered with the same.

3 Interference by the Sessions Court was on the ground that the order passed by the learned Magistrate does not

state any reason whatsoever for refusing investigation under Section 156(3) Cr.P.C. and since the only prayer sought by respondent no.1 was for investigation under Section 156(3) Cr.P.C., the learned Magistrate could not have converted the application into a regular complaint. Perusal of the impugned order shows that, the Sessions Court has not encroached upon the exclusive jurisdiction of the learned Magistrate. It has only opined that, the learned Magistrate has not exercised the discretion judiciously and hence only remanded the matter for re-hearing. This opinion is seen to be fully justified. Hence, there is no merit in the challenge to the impugned order. The Writ Petition is dismissed. At the request of Mr. Mundargi, the ad-interim order is continued for a period of four weeks from today.

(Smt. R.P. SondurBaldota, J.)