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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.719 OF 2015**

Mrs. Miradevi Ramlal Yadav	... Applicant
Vs.	
State of Maharashtra	... Respondent

Mr. Rakesh Mishra i/by SBG and Associates for the Applicant.
Mrs. M.H. Mhatre, APP for the Respondent.

**CORAM : A.S. OKA &
P. D. NAIK, JJ.**

DATE : 11th APRIL, 2016

PC.

1 Heard the learned counsel appearing for the Applicant and the learned APP for the State. Forthwith taken up for final disposal. The prayer in this application under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is for quashing a First Information Report registered for offences punishable under Sections 171G, 177 and 181 of the Indian Penal Code, 1806. We have perused the 1st Schedule to the Code of Criminal Procedure, 1973 showing classification of offences. We find that all the three offences are non-cognizable.

2 Notwithstanding the fact that the three offences are non-cognizable offences, the officer in-charge of Kashimira Police Station in Thane District has proceeded to register the FIR.

3 Section 155 of the Cr.P.C. (for short “Cr.P.C.”) deals with information as to non-cognizable cases and investigation of such cases under Section 155 reads thus :-

“155. Information as to non-cognizable cases and investigation of such cases. -

- (1)** When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.
- (2)** No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.
- (3)** Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.
- (4)** Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.”

4 When an information is given to an officer in-charge of the police station of commission of non-cognizable offence, it is his duty to enter or cause to be entered the substance of the information in a book

maintained in that behalf in the form prescribed by the State Government. After entering the information in the said book, the Police Officer in-charge of the police station is under an obligation to refer the informant to the learned Magistrate. Therefore, the action of the officer in-charge of the said police station of registration of FIR is itself completely illegal. He could not have registered the FIR in accordance with Section 154 of the Cr.P.C.

5 Sub-Section (2) of Section 155 provides that no police officer shall investigate a non-cognizable case without an express order of the Magistrate having power to try such case or commit the case for trial. The learned APP on instructions of the concerned officer states that no such permission has been granted by the learned Magistrate in accordance with Sub-Section (2) of Section 155 of the Cr.P.C.

6 As the registration of FIR is itself illegal, this is a fit case to exercise power under Section 482 of the Cr.P.C. The learned APP states on instructions that no investigation has been carried out by any officer attached to the said police station. We accept the said statement.

7 Accordingly, the application must succeed and we pass the following order :-

ORDER

- (i) Rule is made absolute in terms of prayer clause (a);
- (ii) We direct the office of the Public Prosecutor to forward a copy of this order to the office of the Director General of Police;
- (iii) The office of the Director General of Police shall issue a circular to all concerned police stations inviting attention of the officers in-charge of the police station to the provisions of Section 155 of the Cr.PC. The circular to state that where information is furnished of commission of non-cognizable offences, FIR shall not be registered under sub-section (1) of section 154 and no investigation shall be carried out without complying with the requirement of Sub-Section (2) of Section 155 of the Cr.PC. Necessary circular shall be issued by the Director General of Police within a period of eight weeks from today;
- (iv) Though application is disposed of, for the purposes of reporting compliance, the same shall be listed on 17th June, 2016 under the caption of "Directions".

(P. D. NAIK, J)

(A.S. OKA, J)