

“ On going through the record and on being heard, considering the allegations and the documents filed on record, it appears that before directing the investigation under Section 156(3) of Cr.P.C. the examination of the

complainant is desirable and if required then the matter can be send under Section 202 of Cr.P.C. Hence, the complainant is directed to remain present on next date for verification.”

2. It is clear from the order passed by the Magistrate that instead of adopting the procedure under Section 156(3) of Cr.P.C., the Magistrate decided to adopt the procedure enunciated under the provisions of Section 202 of Cr.P.C.

3. Learned Counsel appearing for the petitioner submits that when the petitioner had invited orders under Section 156(3) of Cr.P.C., Magistrate had no jurisdiction to deviate from the provisions under which application is made by the petitioner and invoke powers under Section 202 of Cr.P.C.

4. We do not find any illegality in the Magistrate resorting to jurisdiction conferred under Section 200 and 202 of Cr.P.C. even in case when the petitioner prays for order under Section 156(3) of Cr.P.C. This issue is settled by judgment of Division Bench in the case of ***Shyam Sunder Radhe Shyam Agarwal v/s. State of Maharashtra {2013 (2) BCR 736}***.

5. There is no case made out to interfere at this stage. The petition is dismissed.

(A.M. BADAR, J.)

(NARESH H. PATIL, J.)