

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

CRI. WRIT PETITION NO. 3845 OF 2015

Shuaib Bashir Khatib

... Petitioner.
(Org.Complainant)

V/s.

The State of Maharashtra

... Respondent.

Mr. R. V. Pawaskar, Advocate for the Petitioner.

Mrs. S. V.Sonawane, APP for the State.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.**

DATE : 15th MARCH, 2016.

P.C. :

1 The Petitioner has filed application before the learned Metropolitan Magistrate, praying for order under section 156(3) of the Code of Criminal Procedure. By order dated 12th August, 2015, the Magistrate observed that this is not a fit case to refer for investigation as per the section 156 (3) of the Cr.P.C. and hence, kept the complaint for verification.

2 The counsel appearing for the Petitioner submits that the impugned order is unreasoned one. It was further submitted that the Petitioner had invoked jurisdiction of the Magistrate for inviting orders under section 156(3) of Cr.P.C..

In such facts situation, it was not permissible for the Magistrate to pass order for recording verification of the complaint. The learned counsel submitted that the procedure to be adopted consequent to the order passed under sections 156(3) and 202 of Cr. P.C., is entirely different. The learned counsel for the petitioner placed reliance on the following judgments of the Apex Court and the High Courts :-

- I) AIR 2009 Supreme Court 2547 (Tutul Kumari Sen vs. State of Jharkhand & Anr..)
- II) 2014 CRI. L.J. 1200 [Bombay High Court] (Hasan Mohammad Issak Maniyar & Ors. vs. Harun Gulab Maniyar & Anr.) &
- III) 2007 Cri. L. J. 3869 [Allahabad High Court] (Santsh Kumari vs. State of U.P.)

3 The issue as to whether the Magistrate instead of resorting to pass order under section 156 (3) of Cr.P.C., as prayed for by the Petitioner/Applicant, could resort to procedure enunciated under section 202 of Cr.P.C., was settled by the judgment of the division bench of this court reported in 2014 Cri. L.J. 1200. The Magistrate is empowered to resort to procedure under section 202 Cr.P.C..

4 In the facts of this case, we are not convinced with the submission that the Magistrate was required to give more reasoning than what was given by him in the impugned order.

5 There is no merit in the petition. Thus we are not inclined to entertain the same. The petition is dismissed accordingly.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

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