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

CRIMINAL WRIT PETITION NO.4771 OF 2015

Gunwant Hiralal Sheth and Anr.	...Petitioners
Versus	
Sunita Chandrakant Pawar and Anr.	...Respondents

Mr.S.S.Redij, for the Petitioners.

Ms.Shobha S. Pawar, for the Respondent No.1.

Mr.S.R.Agarkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
DATE : 28th SEPTEMBER, 2016

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioners have impugned the order dated 11th February, 2015, passed by the learned Special Judge, under the P.C.Act, Mumbai.
3. Learned Counsel for the petitioners states that by the said order dated 11th February, 2015, the matter was remitted back to the trial

Court with a direction to consider afresh the prayer made in the application/complaint, filed by Respondent No.1 (original complainant), keeping in mind the relevant provisions under which relief is sought. The learned Judge was also directed to consider whether such a complaint/application can be filed by a power of attorney holder or not. Learned Counsel submitted that the revisional Court had not considered the Revision Application filed by the Respondent No.1 (original complainant) in its proper perspective and as such could not have passed the impugned order.

4. Learned Counsel for the Respondent No.1 (original complainant) submitted that no prejudice is caused to the petitioners by the said impugned order dated 11th February, 2015.

5. Perused the papers, in particular, the impugned order dated 11th February, 2015. It appears that a complaint was filed by the respondent no.1 (original complainant), as against the petitioners alleging offences punishable under Sections 406, 420, 468, 471 r/w 120B of the Indian Penal Code. After the case was numbered as Case No.56/PW/2012, the trial Court

proceeded with the verification and after hearing the Respondent No.1 (original complainant) and on going through the complaint/application, observed that the dispute between the partners (directors) does not require investigation at the hands of the police and hence referred the matter under Section 202 of the Code of Criminal Procedure for investigation to the Gamdevi Police Station. On receipt of the said report from the Gamdevi Police Station, the trial Court dismissed the complaint under Section 203 of the Code of Criminal Procedure. The said order of dismissal of the complaint dated 16th July, 2013 was impugned by the Respondent No.1 (original complainant) in the Sessions Court, by filing a Revision Application. The revisional Court after going through the papers allowed the Revision Application partly, inasmuch as, it quashed and set aside the orders dated 9th July, 2012, 11th September, 2012, 5th November, 2012, 16th July, 2013, passed by the Learned Additional Chief Metropolitan Magistrate, 40th Court, Girgaon, Mumbai. The learned Judge was also pleased to direct the trial Court to consider afresh the prayer made in the said application/complaint, keeping in mind the relevant provisions under which relief is sought and also directed the trial Court to consider whether such a complaint/application can be filed by a power of attorney holder. The

impugned order does not in any way prejudice the petitioners. The direction is only to consider the matter afresh, keeping in mind the relevant provisions and also to consider whether such a complaint/application can be filed by the power of attorney holder.

6. Considering the aforesaid, no interference is warranted in the impugned order dated 11th February, 2015.

7. It is made clear that the trial Court shall consider the matter afresh on its own merits, uninfluenced by the observations made by the learned Special Judge, Mumbai, vide order dated 11th February 2015.

8. The petition is accordingly disposed of on aforesaid terms.

REVATI MOHITE DERE, J.