

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5093 OF 2014

Saeed Habib Shaikh.

..Petitioner.

Versus

Khulidi Shaikh and Others.

..Respondents.

Mr. Amrut Patil i/b Mr. Birendra Kumar for the Petitioner.
Mrs. M. M. Deshmukh, APP for the State.

Coram : Ranjit More &
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **December 7, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. At the instance of Petitioner - the brother of deceased, FIR bearing No.12/2013 came to be registered by Bandra Police Station for the offence punishable under section 302 read with 34 of the Indian Penal Code, 1860. After investigation, the Investigating Officer came to the conclusion that death of the Petitioner's brother is not unnatural and in that view of the matter B-Summary Report under section 173 of the Code of Criminal Procedure, 1973 was filed before the concerned Magistrate on 2nd June 2012.

2. Learned Counsel appearing for the Petitioner states that the Petitioner has filed protest petition, however, so far learned Magistrate has not passed any order either on the B-summary Report or his protest petition. Learned APP in the

absence of instruction is unable to make any statement.

3. In above circumstances, we are of the view that this petition need not be kept pending. Suffice it to direct learned Metropolitan Magistrate, 12th Court, Bandra before whom B-summary report filed by the police and the protest petition filed by the Petitioner are pending, to pass appropriate orders on the same after giving an opportunity of hearing to the Petitioner, if already not disposed of. Ordered accordingly.

4. Subject to above, writ petition is disposed of.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]