

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

CRIMINAL WRIT PETITION NO.4539 OF 2013

Sarala Sopan Thorat Petitioner

Vs.

Dilip Dattatray Walse Patil & Anr. Respondents

Mr. Kishor Patil i/by Ms. Aarti P. Bhide, Advocate for the Petitioner.

Mr. A.A. Kumbhakoni, Senior Counsel i/by Mr. T.D. Deshmukh,
Advocate for respondent no.1.

Mr. S.V. Gajare, APP for the State of Maharashtra.

Coram : Smt. R.P. SondurBaldota, J.

Date : 5th January, 2016

P.C.

1 This petition filed under Article 227 of Constitution of India and under Section 482 of Code of Criminal Procedure is directed against the order dtd. 30th October, 2013, by which the Sessions Court allowed Criminal Revision Application No.126 of 2013 filed by the respondents and modified the order dtd. 2nd February, 2003 passed by the trial court to delete the directions contained therein of registration of crime and investigation under Section 156(3) Cr.P.C. Mr. Patil, the learned advocate for the petitioner submits that the Sessions Court erred in holding that the learned Magistrate had taken cognizance of the offence alleged in the

complaint and consequently could not have relegated the proceedings to the pre-cognizance stage by directing investigation under Section 156(3) Cr.P.C.. According to him, the observations which have been treated by the Sessions Court as taking of cognizance of the offence are in fact only indicative of mind of the court for sufficiency of material for investigation. Mr. Kumbhakoni, the learned Senior Counsel appearing for respondent no.1 refutes the submission by pointing out that the petitioner herself had in Criminal Revision Application No.139 of 2013, filed by her contended that the petitioner had specifically stated that the learned Magistrate had taken cognizance of the complaint by the very order dtd. 2nd February, 2013. It is obvious from the record that both the sides had clearly understood the order dtd.2nd February, 2013 as the order taking cognizance of the offence. In that circumstance, the impugned order of the Sessions Court is fully justified. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)