

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPW) NO.63/2016

IN

CRIMINAL WRIT PETITION NO.548/2015

Purushottam s/o Trimbak Vyas

..Versus..

Shri Atul Bhailal Ganatra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 2.5.2016

Heard Shri Shivkumar Dwivedi, Advocate for the petitioner,
Shri C.S. Dharmadhikari, Advocate for the respondent Nos.1 to 18,
Shri U.J. Deshpande, Advocate for the respondent No.20 and Shri
N.B. Jawade, A.P.P. for the applicant - respondent No.21.

This is an application filed by the respondent No.21 - State
of Maharashtra for speaking to minutes.

By the order dated 18th April, 2016, Criminal Writ Petition
No.548/2015 is disposed and the matter is remitted to the learned
Magistrate for re-considering it according to law. This Court has
directed that the respondent Nos.1 to 20 be granted hearing while
considering the point as to whether directions are required to be
issued under Section 156(3) of the Code of Criminal Procedure.

The learned A.P.P. relying on the judgment given in the case of *Manharibhai Muljibhai Kakadia and another V/s. Shaileshbhai Mohanbhai Patel and others* reported in **(2012) 10 SCC 517** has submitted that the respondent Nos.1 to 20 have no right of audience at the stage of considering the point as to whether directions are required to be issued under Section 156(3) of the Code of Criminal Procedure.

Shri C.S. Dharmadhikari and Shri U.J. Deshpande advocates for the concerned respondents, relying on the judgment given in the case of *Artson Engineering Ltd. V/s. Indian Oil Corporation Ltd.* reported in **2015(4) Bom. C.R. 435** has submitted that the application praying for speaking to minutes in the circumstances as pleaded in the application is not maintainable.

The objection raised on behalf of the respondents to the maintainability of the application is accepted. It is held that the Criminal Application (APPW) No.63/2016 is not maintainable. It is **disposed of** accordingly.

However, I find that an apparent error is committed by this Court by directing the learned Magistrate to hear the respondent Nos.1 to 20 at the stage of considering the point as to whether directions are required to be issued under Section 156(3) of the

Code of Criminal Procedure. Considering the proposition laid down in the judgment given in the case of *Manharibhai Muljibhai Kakadia and another V/s. Shaileshbhai Mohanbhai Patel and others* (cited supra), the error is apparent and in my view it would be duty of this Court to rectify it.

Hence, the following order:

- (i) Clause (iv) of the operative part of order passed by this Court in Criminal Writ Petition No.548/2015 on 18th April, 2016 is deleted.
- (ii) The order passed in Criminal Writ Petition No.548/2015 on 18th April, 2016 is modified accordingly.
- (iii) It is clarified that the learned Magistrate is not under an obligation to hear the respondent Nos.1 to 20 while considering the point as to whether directions are required to be issued under Section 156(3) of the Code of Criminal Procedure.

JUDGE