

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3582 OF 2015

Smt. Linabai @ Pramilabai w/o Ashok Dhivare
Age : 55 years, Occ. : Agril.
R/o Shardanagar, Shirpur, Dist. Dhule

...APPLICANT

VERSUS

1. The State of Maharashtra,
Through the Officer In charge of
Police Station Thalner,
Tq. Shirpur, Dist. Dhule
2. Bhiva s/o Shankar Randive
Age : 60 years, Occ. : Labourer
R/o Holnathe, Tq. Shirpur,
Dist. Dhule

...RESPONDENTS.

Mr. B. R. Kedar, Advocate for Applicant
Mr. S. Y. Mahajan, APP for Respondent No. 1
Mr. P. S. Paranjape, Advocate for Respondent No. 2

**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.
DATE OF RESERVING JUDGMENT : 15.11.2016.
DATE OF PRONOUNCEMENT OF JUDGMENT : 10.1.2017**

JUDGMENT [PER K.K. SONAWANE, J] :-

1] Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for respective parties.

2] By this application, the applicant invoking remedy under section 482 of the Cr.P.C. approached to this Court and assailed the order dated 2.1.2015 passed by the learned Judicial Magistrate First Class, Shirpur,

District Dhule, in Criminal Misc. Application No. 105 of 2014, thereby directing investigation to be conducted as per the provisions under Section 156(3) of the Code of Criminal Procedure, on a complaint filed by the respondent No.2 herein. Pursuant to directions of learned Magistrate, the Police Authority of Thalner Police station registered the Crime No. 2 of 2015 under Sections 420, 465, 467, 468, 471, 504, 506 r/w.34 of IPC and swung into action. The applicant also prayed for consequential relief to quash and set aside the proceedings initiated against her, vide Crime No. 2 of 2015, registered at Police Station, Thalner, District Dhule.

3] Facts, giving rise to the application, in brief, are as under :-

. The agricultural land, Survey No. 51/5 (Gat No. 131) admeasuring 0.51R was originally belonging to respondent No.2. The applicant and respondent No.2 have consanguinity being paternal uncle. According to applicant, respondent No.2, owing to family settlement in the year 1993, shown inclination to mutate the contentious land Survey No. 51/5 (Gat No. 131) in the name of applicant in Revenue record. Therefore, respondent No.2 tendered an application to the concerned Talathi for mutation of agricultural land in the name of applicant in revenue record. Pursuant to application of respondent No.2, the mutation entry No. 1590 came to be effected in favour of applicant. Accordingly, applicant was put in possession of the contentious land Survey No. 51/5 (Gat No. 131) as owner in the year 1993 and since then the applicant is cultivating and toiling the land, being owner and possessor of the same.

However, after efflux of colossal period of 22 years, the respondent No.2, suddenly raised the objection about genuineness and validity of mutation entry No. 1590 of the applicant and indulged in court litigation. But, he did not succeed and all his allegations were turned down by the revenue courts. Eventually, respondent No.2 approached to the Revenue Minister and got favourable orders pertaining to legality of the mutation entry of the applicant. However, the impugned order of Revenue Minister was put in question vide Writ Petition No. 8253 of 2016 before this Court. After hearing the contentions of the applicant in W.P. No. 8253 of 2016, the impugned order of Revenue Minister came to be stayed and since then the matter is subjudice before this Court.

Meanwhile, respondent No.2, instead of pursuing the Civil Litigation preferred a Private Complaint vide Misc. Criminal Application NO 105 of 2014, before the learned Judicial Magistrate First Class, Shirpur and prayed for penal action against the applicant, on the allegation that the applicant, in connivance with revenue authorities, fabricated and forged the revenue record and cheated the respondent No.2 by getting mutated the contentious agricultural land in her favour vide Mutation Entry No.1590.

The learned Magistrate, on receipt of private complaint bearing No. 105 of 2014, perused the allegations and proceeded to examine the complainant on oath. After verification of all circumstances, learned Magistrate bade the police authorities of Thalner Police Station, to conduct

enquiry under section 202 of Cr.P.C. and to submit report before 10.10.2014. But, lateron, The concerned learned Magistrate once again, by exercising discretion, passed the impugned order dated 2.1.2015 under Section 156(3) of the Cr.P.C. and directed the concerned Police of Thalner Police Station, to register crime for investigation into the matter and file report. Accordingly, the police of Thalner police station, registered the Crime No. 2/15, under Section 420, 465, 467, 468, 471, 504 and 506 r/w. Section 34 of IPC and set the penal law in motion.

Being aggrieved thereby, the applicant approached to this Court and preferred present application, with a prayer to quash and set aside the impugned order dated 2.1.2015 passed under Section 156(3) of Cr.P.C. by invoking extraordinary jurisdiction of this Court under Section 482 of Cr.P.C. The applicant, also prayed for consequential relief to quash and set aside the criminal proceeding, registered against her vide Crime No. 2 of 2015 at Thalner Police Station.

4] Learned counsel appearing for the applicant submits that all the allegations made in the complaint are false, baseless and fictitious one. The dispute pertains to mutation entry in the revenue record, is subjudice before this Court in W.P. No. 8253 of 2014. It cannot be said that the applicant committed mischief and cheated respondent No.2 on the basis of forged and fabricated documents. The learned counsel further harped on the circumstances that the learned Magistrate, after recording statement of complainant on oath and after perusal of documents produced on record,

proceeded to call report of the Police under Section 202 of Cr.P.C. The concerned police conducted enquiry and submitted negative report that no offence is made out against the applicant. But, the learned Magistrate did not appreciate the report of the I.O. filed under Section 202 of Cr.P.C. and once again applied his mind and referred the matter under Section 156(3) of Cr.P.C. to police of Thalner police station, with direction to register the crime, for investigation and to file report. Learned counsel raised a legal issue that, once the learned Magistrate has taken cognizance of the offence, it is not open for him to refer the matter to the Police for investigation under Section 156(3) of Cr.P.C. . He further added that if the investigation of the crime is allowed to be continued following such erroneous and illegal order passed invoking section 156(3) of the Cr.P.C., the entire proceedings would be vitiated. The learned counsel kept reliance on the judicial precedent of our parent High Court, in the case of ***Manish Vijay Mhashelkar Vs. State of Maharashtra and another reported in 2008 Cri.L.J. 670.*** The criminal proceeding initiated against the applicant is nothing but converting the civil litigation into penal proceedings. The learned Magistrate failed to follow the procedure prescribed for initiation of criminal proceeding on private complaint. Learned counsel Shri Kedar, during the course of arguments made reference to earlier criminal proceeding i.e. Misc. Application No. 44 of 2015, filed by the applicant against the impugned order passed by the learned Magistrate, wherein, liberty was granted to the applicant to approach to this Court for quashing the FIR. He contends that in view of the factual aspects, the impugned order of the learned Magistrate is

totally illegal, void and not within the ambit of law. Hence, he requested to allow the application.

5] Per contra, learned counsel for both the respondents submitted that the learned Magistrate has correctly appreciated the circumstances and as the cognizable offence is made out from the recitals of the FIR, he proceeded to pass impugned order under Section 156(3) of the Cr.P.C. for investigation in the interest of justice. Learned counsel appearing for both the respondents submitted that the applicant casted aspersions on the factual aspects which cannot be appreciated and entertained by exercising powers under Section 482 of Cr.P.C. Both the learned counsel upheld the impugned order passed by the learned Magistrate and requested not to nod in favour of applicant. They prayed to dismiss the application.

6] We have given anxious consideration to the arguments advanced on behalf of both sides. We have also delved into the relevant documents produced on record. It is not in dispute that there were litigations in between the applicant and respondent No.2 on account of mutation entry No. 1590 dated 23.1.1993. The proceedings were filed in Revenue Courts as well as before the Revenue Minister, Mantralaya, Mumbai. The Revenue Minister, proceeded to upset the orders of the Revenue Courts passed in favour of the applicant. It is also not put in controversy that the applicant preferred W.P. No. 8253 of 2014 before this court, agitating the legality of the order of Revenue Minister favourable to respondent No.2 and

after hearing, this Court granted stay to the impugned order of the Revenue Minister. Since then, the matter pertaining to the validity and legality of the Mutation entry No. 1590 dated 23.1.1993 is subjudice before this Court. Pending the civil proceedings before this Court, the respondent No.2 approached to the learned Magistrate and preferred a private complaint vide Criminal Misc. Application No. 105 of 2014 for penal action against the applicant. It has been alleged that the applicant fabricated and forged the documents, with an intention to commit mischief of cheating to the respondent No.2. The parties are *ad-idem* to the factual score that learned Magistrate on receipt of private complaint under Section 200 of Cr.P.C. applied his mind and expressed the opinion that the enquiry under Section 202 of Cr.P.C. is necessary in to the matter for further process. Therefore, he passed requisite order on 3.9.2014 and bade the Police Officer of Thalner Police Station, to conduct enquiry under Section 202 of Cr.P.C. and submit report upto 10th January, 2014. Pursuant to the directions of the learned Magistrate, the Police Officers of Thalner police station, conducted the enquiry and submitted report on 9.10.2014, in which it has been mentioned that as the civil litigation in regard to the mutation of land in favour of applicant is subjudice before the Court of law, therefore, there is no substance in the allegations against the applicant. Despite the negative report of enquiry under Section 202 of Cr.P.C., the learned Magistrate once again preferred to deal with the matter and arrived at the conclusion that the contents of the complaint discloses prima facie substance for commission of cognizable offence and, therefore, he directed to register the crime as

per the complaint of the complainant and investigate the matter under Section 156(3) of the Cr.P.c. and submit the report. The impugned order came to be passed by the learned Magistrate under Section 156(3) on 2.1.2015, which is the subject matter of the present application.

7] Now, the legal issue which is to be pondered over in the present application is :-

“Whether the learned Magistrate, after taking cognizance of the offence and passing the order of enquiry and report under Section 202 of Cr.P.C. once again in the light of provisions of Section 156(3) of the Cr.P.C. can further issue directions to conduct investigation by the same agency after registration of crime ?”

8] Before advertng to the merits of the matter it would be apposite to reproduce the relevant provisions of the Code of Criminal Procedure, which are extracted as below :-

“ Section 202 : **Postponement of issue of process.**

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take Cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding: Provided that no such direction for investigation shall be made :-

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session ; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if

he thinks fit, take evidence of witnesses on oath :

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer-in-charge of a police station except the power to arrest without warrant.”

156. “Police officer's power to investigate cognizable case.

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned. “

9] It is to be borne in mind that administration of criminal justice system is controlled under the provisions of Code of Criminal Procedure, 1973. There are two accepted methods for enforcing the administration of Criminal Justice System. One option is available for the complainant or the victim or anybody else for that matter, to approach the State agency i.e. Police or investigating agency under Section 154 of the Cr.P.C. and another mode is to approach the Court of competent jurisdiction by filing a complaint in terms of Section 200 of the Cr.P.C. as contained in Chapter XV of the Cr.P.C. It is a settled rule of law that provisions of Section 156(3) are

consequential on failure of the police officer to comply with the requirements of section 154 of the Cr.P.C. Chapter XII of the Code of Criminal Procedure deals with powers of the police authorities to investigate in respect of cognizable offences, whereas, Chapter XV deals with the complaint filed before the Magistrate for taking cognizance of offence. Chapter XIV of the Code of Criminal Procedure contemplates conditions requisite for initiation of proceedings. Section 190 speaks in respect of cognizance of the offences by the Magistrate.

10] It is worth to mention that “taking cognizance of offence” as envisaged under Section 190 of Code of Criminal Procedure has not been defined anywhere in the Code of Criminal Procedure. However, the Honourable Apex Court, in the case of ***Deorapalli Laxminarayana Reddy and others Vs. Narayana Reddy and others reported in AIR 1976 SC 1672***. has described in para.14, as under :-

“14. This raises the incidental question : What is meant by “taking cognizance of an offence” by the Magistrate within the contemplation of Section 190 ? This expression has not been defined in the Code. But from the scheme of the Code, the content and marginal heading of Section 190 and the caption of Chapter XIV under which Sections 190 to 199 occur, it is clear that a case can be said to be instituted in a Court only when the Court takes cognizance of the offence alleged therein. The ways in which such cognizance can be taken are set out in clauses (a),(b) and (c) of Section 190(1). Whether the Magistrate has or has not taken cognizance of the offence will depend on the circumstances of the particular case including the the mode in which the case is sought to be instituted, and

the nature of the preliminary action, if any, taken by the Magistrate. Broadly speaking, when on receiving a complaint, the Magistrate applies his mind for the purposes of proceeding under Section 200 and the succeeding sections in Chapter XV of the Code of 1973, he is said to have taken cognizance of the offence within the meaning of Section 190(1)(a). If, instead of proceeding under Chapter XV, he has in the judicial exercise of his discretion, taken action of some other kind, such as issuing a search warrant for the purpose of investigation, or ordering investigation by the police under Section 156(3), he cannot be said to have taken cognizance of any offence.”

11] At this juncture, in view of aforesaid legal guidelines, we find merit in the arguments canvassed on behalf of applicant that grave illegality and error is committed by the learned Magistrate while passing the order directing investigation under section 156(3) of the Code of Criminal Procedure. The record shows that, on receipt of complaint under Section 200 of Cr.P.C., learned Magistrate dealt with the complaint and also proceeded to record statement of the complainant on oath. He had also verified the documents appended with the complaint and after application of mind, he arrived at the conclusion that investigation by the police officer is necessary into the matter. Therefore, the learned Magistrate passed the order dated 3.9.2014, below Exh.1 for enquiry and report of the concerned police under Section 202 of Cr.P.C. He preferred to postpone the order of issuance of process against so called accused.

12] The aforesaid circumstances manifestly demonstrate that the learned Magistrate after taking cognizance of the offence but before issuing

process against alleged accused preferred to call report of the Investigating Officer under section 202 of Cr.P.C. by resorting to remedy under Chapter XV of the Cr.P.C. But, later on, he reverted back to the pre-cognizance stage and exceeding his powers ventured to pass impugned order, directing investigation under Section 156(3) of the Code. The subsequent action of the learned Magistrate for impugned order of investigation under Section 156(3) is absolutely contrary to the provisions of Code of Criminal Procedure, 1973. The Honourable Apex Court, in the matter of ***Rameshbhai Pandurao Hedau Vs. State of Gujarat***, reported in AIR 2010 SC 1877, held in para. 13 and 14 as below :-

“13. The settled legal position has been enunciated by this Court in several decisions to which we shall refer presently. The Courts are ad-idem on the question that the powers under Section 156(3) can be invoked by a learned Magistrate at a pre-cognizance stage, whereas powers under Section 202 of the Code are to be invoked after cognizance is taken on a complaint before issuance of process. Such a view has been expressed in Suresh Chand Jain's case (AIR 2001 SC 571 : 2001 AIR SCW 189) (supra) as well as in Dharmeshbhai Vasudevabhai's case (AIR 2009 SC (Supp) 1446 : 2009 AIR SCW 3484) (supra) and the case of Devarapalli Laxminarayana Reddy's case (AIR 1976 SC 1972) (supra).

14. The three aforesaid cases have been cited on behalf of the parties. We may also refer to the decision of this Court in Dilawar Singh v. State of Delhi [(2007) 12 SCC 641] : (AIR 2007 SC 3234 : 2007 AIR SCW 5899), where the difference in the investigative procedure in Chapters XII and XV of the Code has been recognized and in that case this Court also appears to have taken the view that any Judicial Magistrate, before taking cognizance of an offence, can order investigation under Section 156(3) of the Code and in doing so, he is not required to examine the complainant since he was not taking cognizance of any offence therein for the purpose of enabling the police to start investigation. Reference has been made to the decision of this Court in Suresh Chand Jain's case (AIR 2001 SC 571 : 2001 AIR SCW 189) (supra). In other words, as indicated in the decisions referred to hereinabove, once a Magistrate takes

cognizance of the offence, he is, thereafter, precluded from ordering an investigation under Section 156(3) of the Code.”

13] In *Mona Panwar vs. High Court of Judicature of Allahabad reported in (2011) 3 SCC 496*, the Honourable Apex Court, in para. 18, observed thus :-

“18. When the complaint was presented before the appellant, the appellant had mainly two options available to her. One was to pass an order as contemplated by section 156(3) of the Code and the second one was to direct examination of the complainant upon oath and the witnesses present, if any, as mentioned in section 200 and proceed further with the matter as provided by section 202 of the Code. An order made under sub-section (3) of section 156 of the Code is in the nature of a peremptory reminder or intimation to the police to exercise its plenary power of investigation under section 156(1). Such an investigation embraces the entire continuous process which begins with the collection of evidence under section 156 and ends with the final report either under section 169 or submission of charge-sheet under section 173 of the Code. A Magistrate can under section 190 of the Code before taking cognizance ask for investigation by the police under section 156(3) of the Code. The Magistrate can also issue warrant for production, before taking cognizance. If after cognizance has been taken and the Magistrate wants any investigation, it will be under section 202 of the Code.”

14] The Honourable Apex Court reiterated an identical proposition of law in the matter of *Madhav and another vs. State of Maharashtra and another* , reported in (2013) 5 SCC 615, in para. 18 as under :-

“When a Magistrate receives a complaint he is not bound to take cognizance if the facts alleged in the complaint disclose the commission of an offence. The Magistrate has discretion in the matter. If on a reading of the complaint, he finds that the allegations therein disclose a cognizable offence and the forwarding of the complaint to the police for investigation under Section 156(3) will be conducive to justice and save the valuable time of the Magistrate from being wasted in enquiring into a matter which was primarily the duty of the police to investigate, he will be justified in adopting that

course as an alternative to taking cognizance of the offence itself. As said earlier, in the case of a complaint regarding the commission of cognizable offence, the power under Section 156(3) can be invoked by the Magistrate before he takes cognizance of the offence under Section 190(1)(a). However, if he once takes such cognizance and embarks upon the procedure embodied in Chapter XV, he is not competent to revert back to the pre-cognizance stage and avail of Section 156(3).”

15] In the light of aforesaid legal position, it reflects that the Magistrate in the instant case, has exceeded his powers, by violating the provisions of Code of Criminal Procedure, 1973. The procedure adopted by the learned Magistrate for exercising the judicial powers to initiate penal proceeding at the behest of respondent No.2 is unsustainable and not in accordance with the provisions of the scheme of Cr.P.C. Respondent No.2 had filed a complaint under Section 200 of Cr.P.C. before the learned Magistrate. The attending circumstances adumbrates that the Magistrate recorded the statement of the complainant on oath and applied his mind. He had also verified the documents produced on record. In such circumstances, no expert is required to draw an inference that the learned Magistrate has taken cognizance of the offence as alleged against the accused/applicant. However, instead of issuing process, the learned Magistrate preferred to call report of the enquiry under Section 202 of Cr.P.C. and postpone the order of issuance of process against alleged accused.

16] It is a mandate of law, as discussed above, that once the Magistrate has taken cognizance of the offence, he has to follow the

procedure prescribed under Chapter XV of the Code of Criminal Procedure. The enquiry envisaged under Section 202 of the Cr.P.C. is only to help the Magistrate to decide whether to proceed further for issuance of process or not. Undisputedly, the investigation ordered by the learned Magistrate under Section 156(3) by passing subsequent order under Chapter XII was required to be passed at pre-cognizance stage. The enquiry/investigation ordered under Section 202 of the Cr.P.C. was at post-cognizance stage. The law does not permit the Magistrate to switch back for investigation under Section 156(3) of Cr.P.C. once he has chosen to adopt the course under Section 202 of Cr.P.C. In the instant case, the subsequent order of learned Magistrate for investigation under Section 156(3) of the Cr.P.C. and consequential act of registration of crime No. 2/2015, is apparently illegal, imperfect and not in accordance with the provisions of law. Therefore, the impugned order directing investigation under Section 156(3) and consequential registration of FIR vide crime No. 2 of 2015, deserves to be quashed and set aside.

17] We are of the considered opinion that the learned Magistrate committed error by exceeding his powers. Therefore, we have no hesitation to exercise powers under Section 482 of Cr.P.C. to quash and set aside the impugned order passed by the learned Magistrate, dated 2.1.2015, below Exh.1, directing investigation under Section 156(3) of Cr.P.C. Moreover, the investigation carried out on the basis of such illegal order of the learned Magistrate is required to be vitiated. In the result, the proceeding of Crime No. 2 of 2015, registered at police Station, Thalner, Dist. Dhule is hereby

quashed and set aside. It has also brought to the notice of this Court that the learned Magistrate has initially passed order below Exh.1 dated 3.9.2014, for enquiry and report of the investigating officer under Section 202 of Cr.P.C. Accordingly, the police of Thalner police station conducted the enquiry and submitted the report in compliance with the order of learned Magistrate dated 3.9.2014. As referred (supra) this Court proceeded to quash and set aside the impugned order of the learned Magistrate passed under Section 156(3) of Cr.P.C. dated 2.1.2015 and consequential proceedings of Crime No. 2 of 2015, registered at Police Station, Thalner, District Dhule. In such peculiar circumstances, it is imperative to maintain status-quo-ante in the proceedings filed under Section 200 of Cr.P.C. before learned Magistrate vide . Criminal Misc. Application No. 105 of 2014. The learned Magistrate is competent to proceed further under the provisions of Section 203 and 204 of Cr.P.C. for logical end of the proceedings. We may refer the rule of law delineated by this Court in the case of Manish Vijay Mhashelkar, (referred supra), in which it has been held that the impugned order passed by the learned Magistrate directing the police to investigate the matter under Section 156(3) and the FIR which is registered by the police pursuant to direction by the Magistrate will have to be quashed and set aside. However, the Magistrate is competent to proceed under the provisions of section 202 of Cr.P.C. In the matter in hand, the learned Magistrate has already received report of the I.O. after enquiry under Section 202 of Cr.P.C. Therefore, the learned Magistrate is competent to proceed further for requisite order as contemplated in Chapter XV of Cr.P.C. by taking recourse to Sections 203

and 204 of Cr.P.C.

18] However, the learned single Judge of this Court, while deciding Writ Petition No. 44 of 2015, (Smt. Linabai @ Pramilabai w/o. Ashok Dhivare Vs. State of Maharashtra & another), filed by the applicant, observed that after passing order under Section 156(3) of the Cr.P.C. by the learned Magistrate, the criminal proceeding of M.A. No. 105 of 2014 is automatically disposed of and closed. It would be reiterated that we have already quashed and set aside the impugned order passed by the learned Magistrate under section 156(3) of Cr.P.C. and consequential registration of Crime No. 2 of 2015. Therefore, in case, the proceedings of M.A. No 105 of 2014 has come to an end, after passing the impugned order under Section 156(3) of Cr.P.C. by the learned Magistrate, it is necessary to restore the proceeding at its original stage. Obviously, it would facilitate for the learned Magistrate to take requisite steps to its logical end. Therefore, we order to restore the proceedings of Criminal Misc. Application No. 105 of 2014 to its original stage. The Learned Magistrate is at liberty to proceed further to appreciate the report and do the needful for passing requisite order under section 203 or 204 of Cr.P.C., as the case may be, in the interest of justice.

19] In the above premises, we do not find any impediment to allow the application. The impugned order of the learned Magistrate dated 2.1.2015 passed under Section 156(3) of the Cr.P.C. for registration of crime and investigation by the police authority of Thalner Police Station, is hereby quashed and set aside. The consequential relief of quashing and setting aside the proceeding of Crime No. 2 of 2015 registered at Thalner Police

Station is also hereby granted. The learned Magistrate is at liberty to do the needful after restoration of the proceeding of Criminal Misc. Application No. 105 of 2014, at its original stage, for appreciation of the report of Thalner Police Station, submitted under Section 202 of Cr.P.C. The respondent No.2, being the complainant, in the penal proceeding vide Criminal Misc. Application No. 105 of 2014, is hereby directed to appear before the learned Magistrate on 6th February, 2017, for hearing. The learned Magistrate shall pass requisite order as contemplated under Chapter XV of the Cr.P.C. after hearing and appreciation of report under Section 202 of Cr.P.C. submitted by Thalner Police Station.

20] Accordingly, Rule is made absolute in above terms. There shall be no orders as to costs.

[K.K.SONAWANE]
JUDGE

grt/-

[S.S. SHINDE]
JUDGE.