

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

CRIMINAL WRIT PETITION NO.2380 OF 2016

Varadrajan S. Shriyan & Ors. ...Petitioners
Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. Ashish S. Chavan for the Petitioners.

Ms Ayush Shah i/b. Mr. Ashwin Ankhad and Associates for the
Respondent No.2.

Mr. Y.M. Nakhwa, APP for the Respondent No.1-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd NOVEMBER, 2017.

P.C.:-

The Petitioners herein have challenged the order dated 3rd June, 2016 whereby the learned Additional Sessions Judge, Greater Bombay has allowed the revision application No.344 of 2015 and thereby set aside the order dated 23rd December, 2015 passed by the Metropolitan Magistrate, 68th Court, Andheri, dismissing the complaint under Section 203 of Cr.P.C.

2. The Respondent No.2 was complainant in C.C. No.156/SW/2013. She had filed a complaint against the aforesaid Petitioners, who are the members of Managing Committee of Montana

Co-op. HSL, Lokhandwala Complex, Andheri (West), Mumbai, for offences punishable under Sections 403, 406, 420, 467, 471 and 503 r/w. 34 of the IPC. The learned Magistrate had recorded the statement of the Respondent No.2 and under Section 202 of Cr.P.C. referred the matter for enquiry to District Deputy Registrar. Upon considering the report of the District Deputy Registrar, the learned Magistrate dismissed the complaint under Section 203 of Cr.P.C. In the Criminal Revision Application No.344 of 2015 the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay had set aside the said order and directed the Magistrate to issue process.

3. Ms Ayush Shah, learned counsel for the Respondent No.2 submits that pursuant to the order, the learned Magistrate has already issued process against the Petitioners herein. In the course of the arguments the learned counsels for the Petitioners and Respondent No.2 concede that the impugned orders 23rd December, 2015 and dated 3rd June, 2016 be set aside and the matter may be remanded to the learned Magistrate with direction for investigation through some police agency under Section 202 (1) of Cr.P.C.

4. In the light of the said statement, impugned orders dated

23rd December, 2015 and 3rd June, 2016 are set aside. Consequently, order of issuance of process is also set aside. The learned Magistrate is directed to order investigation through the police agency under Section 202 (1) of Cr.P.C. and upon receipt of the report to proceed in accordance with law.

5. The Petition stands disposed of in terms of above.

(ANUJA PRABHUDESSAI, J.)