

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 786 OF 2016

Pandurang Tukaram Dude	...	Applicant
Vs.		
The State of Maharashtra & Ors.	...	Respondents

Mr. Satyavrat Joshi, Advocate for the applicant.

Mr. Prashant Patil for respondent No.2.

Ms. Anamika Malhotra, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 12th April, 2017.

P.C.

The applicant happens to be original complainant in RCC No.1620 of 2016 pending before the Judicial Magistrate, First Class, Pune. Being aggrieved by the order dated 15.6.2016 passed by the JMFC, Pune, the applicant has approached this Court. The impugned order reads as follows :-

“Read application heard Advt. for accused there is an allegation against accused person u/s 395, 441, 506(2), 120(B) which provides punishment upto 5 years. The offence are charge triable as a regular case. hence I pass following order :-

Nazir is directed it as a RCC.

Matter be put up for verification &

adducing witnesses if any.

2. The learned counsel for the applicant vehemently submits that the application was filed by the complainant with a specific prayer for a direction under Section 156(3) of Cr.P.C. However, the learned Magistrate has registered the same as a regular criminal Case and has posted the matter for verification and for adducing evidence of the witnesses, if any. It appears that the learned Magistrate has exercised his judicial discretion in passing the order putting up case for verification and the same cannot be challenged. The said direction of the Magistrate has not attained finality. In view of this, it would not be appropriate to interfere with the order dated 15.6.2016.

3. The learned Magistrate to proceed with further stages without prejudice to the rights of the applicant. It is made clear that all contentions are kept open and the learned Magistrate shall proceed with the same in accordance with law.

4. Application stands disposed of. Rule is discharged.

(SMT. SADHANA S.JADHAV, J.)