

vks

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

CRIMINAL WRIT PETITION NO.2882 OF 2017

Jubeda A.R.Chunawala and ors ... Petitioner.

V/s.

The State of Maharashtra
and others ... Respondents

Mr. Rishi Bhuta, for the Petitioners.
Mr. V. B. Konde Deshmukh, APP for the
Respondent State.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 13th NOVEMBER, 2017.

P.C. :

- 1] Heard learned counsel for the petitioner and learned APP.
- 2] The petition is filed for quashing M.E.C.R.No.32 of 2017, for the offence punishable under Sections 420, 406, 465, 471 read with 34 of the Indian Penal Code. The said M.E.C.R. registered at the instance of respondent No.3, pursuant to the order of the learned Magistrate, in exercise of powers under Section 156(3) of Code of Criminal Procedure.

3] The only argument advanced by the learned counsel for the petitioner is that respondent No.3 could not have approached the Magistrate under Section 156(3) of Code of Criminal Procedure, directly without approaching the police under Section 154 of CPC. In this regard, he relied upon the judgment of **Priyanka Srivastava and anr -vs- State of U.P. And ors**, and judgment of Division Bench of this Court dated 5th April, 2016 in Writ Petition No.3713 of 2015.

4] We have perused the complaint filed by the respondent No.3 before the learned Magistrate.

5] The Apex Court in case of Priyanka Shrivastav (supra) held that the complainant directly cannot approach the Magistrate under Section 156(3) of CPC without approaching the police and filing application under Section 154(1) and 154(3) of CPC. It was further held that such application is required to be supported by an affidavit.

6] So far the present complaint filed by respondent No.3 is concerned, in paragraph No.46 of the complaint, averment is made that respondent No.3 has made complaint to the Senior Inspector of Police at Amboli Police Station, however, that complaint was not given acknowledgement and therefore, the complainant concerned

approached the learned Magistrate. Respondent No.3 has also verified the contents of the complaint to be true and correct. We are, therefore, of the opinion that the facts of the present case are distinguishable from the facts in case of Priyanka Shrivastav(supra) and also from the facts in the judgment of Division Bench of this Court in W.P.No.3713 of 2015.

7] In above circumstances, we do not find any merit in the petition and the same is dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]