

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 175/2017

(JITESH ATMARAMJI UPADHYAY VERSUS STATE OF MAHARASHTRA, THR. PSO, PS UMRER & ANOTHER)

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

Court's or Judge's orders

None for the applicant.
Ms T.Khan, A.P.P. counsel for the NA-1.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : SEPTEMBER 04, 2017.

Though the criminal application was filed on 24.04.2017, the same is adjourned time and again as the applicant had not removed the office objections.

None appears for the applicant, today.

By this criminal application, the applicant seeks the quashing and setting aside of the order passed by the Judicial Magistrate First Class, Umrer, dated 02.12.2016 in Criminal Complaint Case No.163 of 2016.

The applicant had filed a complaint under Section 156(3) of the Code of Criminal Procedure seeking a direction against the Police Inspector to investigate in the complaint of the applicant. The application filed by the applicant was, however rejected by the impugned order dated 02.12.2016.

On a reading of the amended provisions of Section 156(3) of the Code of Criminal Procedure, which were brought into force on 30.08.2016, it appears that there is no infirmity in the order of the Judicial Magistrate First Class, Umrer, dated 02.12.2016 rejecting the complaint of the

applicant under Section 156(3) of the Code. Under the amended provisions of Section 156(3) of the Code, the Magistrate is competent to pass an order of investigation against a person, who is or was a public servant only if there is a sanction for prosecuting the public servant under Section 197 of the Code or any other law for the time being in force. Since the non-applicant no.2 is a public servant being a police inspector, the Judicial Magistrate First Class had rightly refused to issue a direction against the non-applicant no.1 to further investigate in the matter in the absence of any sanction under Section 197 of the Code.

Since there is no infirmity with the impugned order, we dismiss the criminal application with no order as to costs.

JUDGE

JUDGE

APTE