

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

CRIMINAL WRIT PETITION No. 150 OF 2016

Ramchandra Khadke **...Petitioner**
Vs.
Jaywant Tulshiram Bhandare and Ors. **...Respondents**
WITH
CRIMINAL WRIT PETITION No. 479 OF 2016

The State of Maharashtra **...Petitioner**
Vs.
Jaywant Tulshiram Bhaandare and Anr. **...Respondents**

Mr. Santaram A. Tarade for Petitioner
Mr. S.R. Nargolkar i/b. S.S. Mohite for Respondent No.1
Mrs. S.S. Kaushik -APP for the State

CORAM : NITIN W. SAMBRE, J.
DATE: MARCH 12, 2018

P.C.

1. Heard the learned counsel for the Petitioner in Writ Petition No. 150 of 2016 and Learned APP for the Petitioner -State in Writ Petition No. 479 of 2016.
2. The order impugned passed therein is common, as such these petitions are heard together and disposed of by this Court by common order.
3. By the impugned order dated October 21, 2013, the Assistant Sessions

Judge -1 Pandharpur in Criminal Appeal No. 16 of 2013 has quashed and set aside the order dated 31st December, 2012 passed by the Judicial Magistrate, First Class, Pandharpur whereby the Learned Magistrate below Exhibit 1 has ordered for registration of an offence punishable under section 466 of the Indian Penal Code against the non-applicant before the said Court in Complaint S.T.C. No. 369 of 2010. The Assistant Superintendent of Sessions Court was directed to file such complaint as its representative, under the provisions of section 340 of the Criminal Procedure Code. The genesis for passing such order is, in the trial before the said Magistrate, the name of the Complainant viz. Rajendra was noted in the STC register maintained in the Registry of the Court, whereas in Exhibit 1 of the proceeding, the name was changed to Sanjay. This tampering came to the notice by the Court while passing the order. The Revisional Court while passing the order impugned noted that the record of the case in question, is in the custody of the Court and, as such, inquiry should have been conducted and the Respondent-Complainant should have been given an opportunity to present his case before the order is passed.

4. So far as the said observation by the Assistant Superintendent of Sessions Court is concerned, without going into the merits as to whether the Respondent Complainant was heard or not, an opportunity needs to be offered before such

inquiry to be ordered.

5. Hence, this Court disposed of the matter with only modification that the Learned Magistrate shall proceed to decide the Application No. 143 of 2012 afresh after considering the claims of the rival parties and after conducting the discreet inquiry having regard to the fact that the Court was in custody of the record. With above observations, the petition stands disposed of.

[NITIN W. SAMBRE, J.]