

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

WRIT PETITION NO. 499 OF 2017

Mr. Mahesh Subramaniam

...Petitioner

V/s.

The State of Maharashtra and ors.

... Respondents

Mr. Uday P. Bobde i/by Jeetandra Ramugade with P.R.Chaurasia holding for M.P. Tekavde for the petitioner.

Mr. S.S. Hulke, APP for the Respondent/State.

Mr. Ashif Hussain for Respondent No.6.

Mr. V.V. Dhurve, PSI, Kurla Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 27th September, 2018

P.C.:

1. By the present petition under Article 227 of the Constitution of India the petitioner has impugned the Order dated 8.8.2016 passed below Exh.8 by the learned Metropolitan Magistrate, 51st Court, Kurla, Mumbai in CC No.3/SW-2014 thereby issuing search warrant under Section 93 of the Code of Criminal Procedure and Seizure warrant under Section 94 of the Code of Criminal Procedure for seizure of the documents mentioned in the summons i.e. 1) Copy of the Agenda dated

27.7.2008 and 12.11.2010 2) Minutes book dated 12.8.2008 and 28.1.2010 3) Copy of M-20 Bond dated 10.9.2008 and the directions to the Senior Police Inspector of Police, Kurla, Mumbai to comply the warrant and report the compliance within three months from the date of passing of the Order.

2. The petitioner is the original complainant in CC No.3/SW-2014 pending on the file of Metropolitan Magistrate, 51st Court, Kurla, Mumbai. On the applications filed by the petitioner under Sections 93 and 94 of the Cr.P.C. the learned Magistrate passed the Order dated 8.8.2016 which is impugned herein.

3. The record indicates that, in pursuance of the said Order dated 8.8.2016 the police officer attached to Kurla Police Station has conducted search of the concerned premises and have seized certain documents (files). It is the contention of the petitioner that, the documents which have been mentioned in the complaint are not traced out by the police and till the documents are traced out by police, to continue the search operation. It is to be noted here that,

in pursuance of the Order dated 8.8.2016 passed by the learned Magistrate, police have already conducted search of the suit premises and have seized documents found therein by effecting a panchanama in that behalf.

4. In view thereof, the Order dated 8.8.2016 has been complied with and the prayers made in the petition cannot be granted. Even otherwise the impugned order does not suffer from any error. It is to be noted here that, if certain documents are not traceable despite conducting search, the police cannot be forced to procure the said documents at the insistence of the petitioner with a view to cause undue harassment to the respondent Nos. 2 to 4.

5. In view of the above, this Court is of the view that, nothing survives in the present petition and is accordingly disposed off.

(A.S.GADKARI, J.)