

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 1807 OF 2018**

Faizal Arshad Siddique

....Petitioner.

Vs.

The State of Maharashtra and anr.

....Respondents.

Mr.Ganesh Gole for the Petitioner.

Mr. A.R.Patil, APP, for the Respondent-State.

Mr. Satish Kumbhar for Respondent No.2.

CORAM : A. S. GADKARI, J.**DATE : 27th AUGUST, 2018.****P.C.:-**

1. The present petition is under Article 227 of the Constitution of India. The petitioner has assailed the Order dated 30.1.2017 passed below Exhibit-2 thereby framing charge under Section 465, 467, 468, 471, 201 read with 34 of the Indian Penal Code by the learned Additional Chief Metropolitan Magistrate, 8th Court Esplanade, Mumbai in Criminal Case No.103/PW/2017.

2. It is the contention of the learned counsel for the petitioner that, the petitioner was not heard before framing of charge and there is violation of Section 239 of the Cr.P.C. The learned counsel for respondent NO.2 -complainant fairly conceded to the said factual

aspect.

3. In view thereof, the impugned Order dated 30.1.2017 passed below Exhibit 2 in Criminal Case No.103/PW/2017 by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade Mumbai, is hereby quashed and set aside.

The learned Magistrate is directed to hear the petitioner before framing of charge as contemplated under Section 239 of Cr.P.C.

4. Petition is allowed in terms of prayer clause (a) with the aforesaid directions,

(A.S. GADKARI, J.)