

Rane

* 1/3 * WP- 2786-2017 (SR. 904)
Wednesday, 17.1.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2786 OF 2017

Kishor Prabhudas Chhabria
and Ors.

....Petitioners

V/s.

State of Maharashtra

....Respondents

* * * * *

Mr. Sanjeev Kadam i/by. Mr. T.D. Joshi, Advocate for the
petitioners.

Mrs. Anamika Malhotra, APP for the State, respondent
no.1.

Mr. S.V. Marwadi i/by. Mr. S.J. Kantharia, Advocate for
respondent no.2.

CORAM :-

R.M.SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

17TH JANUARY, 2018.

P.C. :-

1. The above Writ Petition is filed for quashing
and setting aside criminal complaint dated 18th October,
2010 bearing no. 440 of 2010 filed by respondent no.2 i.e.
IDBI Bank Ltd. In respect of the said challenge, certain
events have intervened and more especially the order

dated 9th January, 2012 passed by the Learned Judicial Magistrate First Class, Court-V, Pune. By the said order, the Learned Judicial Magistrate First Class has rejected the report filed by the Investigating Agency i.e. Yerwada Police Station under Section 169 of the Criminal Procedure Code, as also, rejected the application made for further investigation by the complainant. The Learned JMFC has observed that, it will be just and proper to proceed with the original complaint filed by the complainant and has accordingly directed the complainant to proceed with his original complaint as per law.

2. It is required to be noted that, the said order dated 9th January, 2012 passed by the Learned JMFC, Pune was challenged by the petitioners by way of Writ Petition No. 1550 of 2012 before a Division Bench of this Court. The Division Bench, by order dated 26th April, 2012, dismissed the said Petition on the ground that the same was premature as the process was not issued by the Learned JMFC, however, granted liberty to the

petitioners to file appropriate proceedings, if the process was issued. Hence, the challenge to the said order dated 9th January, 2012 was rejected by the Division Bench on the ground that the same was premature. The Learned Counsel appearing on behalf of the Petitioner sought to question the registration of the FIR on the grounds, which we have no doubt, were the grounds which were urged before the Division Bench in the year 2012 in the said Writ Petition No. 1550 of 2012. The factual situation has not changed, though we are in the year 2018, as admittedly the process as contemplated by Section 190 read with Section 204 of the Criminal Procedure Code has not been issued by the Learned JMFC. We, therefore, do not deem it appropriate to entertain the above Writ Petition on the ground that the same is premature. The same is accordingly dismissed.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)