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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.770 OF 2017

Abdul Wahid Habib-ur-Rehman	..Applicant.
V/s.	
The State of Maharashtra & Anr.	..Respondents.

Mr.Sathyanarayan for the applicant.

Mr.Y.Y.Dhabke. APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : APRIL 10, 2018

PC.:-

In a dispute in relation to landlord and tenant, the applicant filed Criminal Case No.754/M/2016 before the 62nd Court, Dadar, Mumbai seeking directions under section 156(3) of the Code of Criminal Procedure alleging commission of offence punishable under sections 406, 420, 465, 467, 468, 471 read with 34 and 120B of the Indian Penal Code by the accused persons.

2. The property which forms the basis of a criminal case is owned by the Bombay Port Trust, who have already initiated

eviction proceedings before the Small Causes Court, Mumbai against the original tenant, of whom the applicant claims to be licensee.

3. It is the case of the applicant in the criminal complaint, certain documents in relation to landlord and tenant relationship are forged with criminal intention.

4. The learned counsel for the applicant while taking me through the complaint would urge that what is required to be appreciated by the learned Magistrate at the stage of considering of passing an order under section 156(3) of the Code is, whether the contents of the complaint discloses cognizance of an offence or not. According to him, the learned Magistrate has committed error in recording finding that the case needs to be dealt with pursuant to the provisions of section 200 of the Code of Criminal Procedure. He would then urge that plain reading of the complaint takes this Court to the only conclusion that the contents *prima facie* discloses cognizance of offence, as such order under section 156(3) of the Code of Criminal Procedure.

5. Considered submissions of the learned counsel for the applicant.

6. The impugned order passed by the learned Magistrate refusing to take cognizance under section 156(3) of the Code of Criminal Procedure, directing the petitioner to appear for recording verification was subject matter of challenge before the learned Sessions Judge in a revision which was withdrawn.

7. Apart from above, the order of the Magistrate has not foreclosed the case of the applicant, as the Magistrate was not satisfied *qua* the case made out pursuant to the requirement under section 156(3). The learned Magistrate has directed the applicant to appear for recording of verification so that his complaint can be dealt with pursuant to the provisions of sections 200 and 202 of the Code of Criminal Procedure.

8. That being so, I hardly notice any illegality in the approach reflected in the impugned order of the Magistrate.

9. No case for interference is made out. The application is dismissed.

(NITIN W.SAMBRE, J.)