

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1319 OF 2015**

Rehana Iqbal Khan	...Applicant
Versus	
The State of Maharashtra & Ors.	...Respondents

Mr. H. B. Laxmipalli i/b Ms. Ratna Ramlakhan Jaiswal for the Applicant

Mr. H. J. Dedhia, A.P.P for the Respondent Nos.1 & 2-State

Mr. Amin M. A. Solkar for the Respondent Nos. 3 to 5

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 5th JANUARY, 2018

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant has impugned the order dated 20th October, 2015 passed by the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai.

3 Learned counsel for the applicant submits that the applicant has filed the complaint in the Court of the Metropolitan Magistrate, 66th Court,

Andheri, alleging offences punishable under Sections 452, 323, 324, 504 and 506 of the Indian Penal Code. He submits that the facts in the complaint warrant investigation under Section 156(3) Cr.PC. He submitted that the learned Judge ought to have sent the matter for investigation under Section 156(3) instead of directing the applicant (complainant) to file her verification under Section 200 Cr.P.C. Learned counsel for the respondents opposed the application. He submitted that no interference is warranted in the impugned order.

4 Perused the papers. The applicant (complainant) has filed a complaint in the Court of the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai, as against the respondent Nos. 2 to 9, alleging offences punishable under Sections 452, 323, 324, 504 and 506 of the Indian Penal Code. In the said complaint filed by the applicant, the applicant had prayed for a direction for investigation under Section 156(3) Cr.P.C. The allegations principally as against the respondents are of harassment, trespassing, violence, etc. The learned Magistrate after going through the complaint, has passed the following order :

“Considering allegations leveled in the complaint there ever Circumstances to send the matter for investigation of 156 (3) of Cr PC. Hence prayer is disallowed. However Complaint is to file her Verification u/s 200 of Cr PC.”

5 When a private complaint is filed, the Magistrate in his discretion can either direct the police to investigate under Section 156(3) or can proceed under Section 200 Cr.P.C or dismiss the complaint. No infirmity can be found in the said order dated 20th October, 2015, warranting interference in writ jurisdiction. Accordingly, the application is dismissed. The learned Magistrate shall proceed with the verification of the complainant under Section 200 of Cr. P. C. and shall thereafter pass appropriate orders, in accordance with law.

6 Application is dismissed and is disposed of on the aforesaid terms.

REVATI MOHITE DERE, J.