

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 495 OF 2018
in
WRIT PETITION NO.4056 of 2018

Ravindra Jaiswar and anr.

.....Applicants/
Org. Petitioners

versus

The State of Maharashtra and anr.

.....Respondents

Ms. Anjali Awasti I/b. Mr. Moin Khan, advocate for the applicants.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 5th DECEMBER, 2018.
(In Chambers)

P. C. :

Heard learned counsel for the applicants.

2. The criminal application is filed for recalling the order dated 3rd October, 2018. By the said order, we refused to entertain the petition on the ground that the petitioners have an alternative remedy.

3. By the order impugned in the petition, the magistrate refused to issue orders under Section 156 (3) of the Code of Criminal Procedure, 1973, however, he directed the complaint to be proceeded under Section 200 of the Cr.P.C. The learned counsel for the petitioners does not

dispute that this order is revisable. She, however, submits that the petitioners wants investigation to be carried out by the CBI and the magistrate in exercise of powers under Section 156(3) of the Cr.P.C. cannot direct CBI to investigate regarding the allegations made in the complaint. We are not impressed by the submission inasmuch once the petitioners succeed in revision and, in the event of passing order under Section 156(3) of the Cr.P.C., the petitioners can always approach this Court under Article 226 of the Constitution of India and request for transfer of investigation to CBI. The learned counsel for the petitioners also relied upon the decision of the Apex Court in **Dhariwal Tobacco Products Limited and ors. versus the State of Maharashtra and anr. (2009) 2 SCC 370.** The facts of the present case and the facts of the case referred above are entirely different. In the said case, the Apex Court held that despite availability of alternative remedy, petition under Section 482 of the Cr.P.C. is maintainable. However, in our opinion, in the facts and circumstances of the present case, alternative remedy is also an efficacious remedy. Therefore, we are not inclined to entertain the criminal application and the same is, accordingly, dismissed.

[SMT.BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]