

—
IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CRIMINAL WRIT PETITION NO.336/2018

(Atul s/o Sahebrao @ Omkarrao Lavhale and others **VS.** The State of Maharashtra)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

Mr. A.V. Band, Advocate for petitioners
 Mr. A.S. Fulzele, Addl. Public Prosecutor for respondent

CORAM : **SMT. VASANTI A. NAIK &**
MRS. SWAPNA JOSHI, JJ.
DATED : 17th April, 2018.

Heard.

By this Writ Petition, the petitioners challenge the order of the Assistant Police Inspector, Police Station, Samraspur, dated 03.04.2018 asking the petitioners to attend the Police Station on 4.4.2018 or else it would be presumed that the petitioners have nothing to say in the complaint filed by the complainant and appropriate action would be taken against them. Since the impugned notice is issued under section 160 of the Code of Criminal Procedure and the said provision would not be applicable, the petitioners have filed the instant petition.

Shri Fulzele, the learned Additional Public Prosecutor appearing for the respondent fairly states that there is a wrongful mention in the notice to the provisions of Section 160 of the Cr.PC. It is stated that an enquiry is being

conducted in the complaint lodged by the complainant. It is stated that even while making an enquiry, it is permissible for a Police office to call a person to verify the correctness of the allegations in the complaint. It is however stated that the impugned notice is not properly worded and a wrong provision is quoted in the same. It is stated that since by the said notice the petitioner was asked to remain present on 04.04.2018 and the Writ Petition is filed on 07.04.2018, the cause for filing the Writ Petition is rendered infructuous.

We are satisfied with the explanation tendered by the learned Additional Public Prosecutor. In any case, since the impugned notice required the presence of the petitioners on 04.04.2018 and the said date has already expired and it is stated on behalf of the respondent that a notice under section 160 Cr.PC. would not be issued during enquiry, we dispose of the Criminal Writ Petition. Order accordingly.

JUDGE

JUDGE