

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1354 OF 2018

Habib Ahmed Habib Abdulla @ Hammu Chaus ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

.....
Mr. S.S.Deshmukh, Advocate for Applicant.
.....

CORAM : **T. V. NALAWADE &**
K. K. SONAWANE, JJ
DATE : **18-09-2019.**

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith. Heard finally by the consent of both the sides for final disposal.

02. Proceeding is filed for relief of quashing and setting aside the Order dated 31.1.2015 in M.A. No. 112/2015 which was pending in the Court of Judicial Magistrate First Class, Parbhani and also the Order made under Section 156(3) of Cr. P. C. dated 13.4.2015. The submissions made shows that this proceeding was filed before J. M. F. C. by one Subhash Gore on 30.1.2015. In that proceeding he has made allegations that he was received by selling the property which was not belonging

to vendors and consideration amount was extracted from him. In the said matter no immediate Order under Section 156(3) was made. He then approached Police and gave report on 24.3.2015 making the same the allegations. Police investigate the said crime and filed charge-sheet on 4.7.2016. In the troceeding before J. M. F. C. came to under section 156(3) was made on 13.4.2015. In view of these circumstances, it can be said that the first F.I.R. Was registered on 24.3.2015 and due to Order made by J.M.C. 13.4.2015.

03. The learned Counsel for the applicant placed reliance of observations in **Awadesh Kumar Jha @ Akhilesh Kumar Jha and Anr. V/s The State of Bihar., (2016 3 SCC 8)** In this case the Apex Court had laid down that if there is a subsequent F.I.R., the subsequent F.I.R. can not be registered and the specifically information can be considered first crime. In the present matter it can also be done. It is open to Police to file the report in the Court in which the charge-sheet is filed to the effect that the case is already filed in respect of the crime alleged to be committed against the present petitioners that Second F.I.R. Can be merged into the First F.I.R. Second F.I.R. Can be considered as a part of the first case of this Court. With these directions the petition is

allowed and disposed of. The fees of the appointed Counsel is quantified at Rs. 3,000/- would be paid through the High Court Legal services Sub-committee at Aurangabad.

[K.K.SONAWANE]

JUDGE

[T.V.NALAWADE]

JUDGE

Dahibhate/-