

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 206 OF 2003**

Hemanshu Jitendra Trivedi,
aged 32 years, Indian Inhabitant,
Asset Management Officer in employment
with M/s. Standard Chartered Bank,
(formerly M/s. ANZ Grindlays Bank Ltd.
Having its office at 462, Phoenix Mill Compound,
Senapati Bapat Marg, Lower Parel,
Mumbai – 400 013

...Petitioner

Versus

1. The State of Maharashtra
represented through
Senior Inspector of Police,
Kolsewadi Police Station,
Kalyan (East), Dist. Thane
 2. Dharmendra Pandey,
301, Dashrath Kutir,
Prabhu Ram Nagar,
Kate Manwali, Kalyan (East),
Kalyan
- ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 207 OF 2003**

Pradeep B. Dwivedi,
aged 32 years, Indian Inhabitant,
a Collection Manager in employment
with M/s. Standard Chartered Bank,
(formerly M/s. ANZ Grindlays Bank Ltd.
Having its office at 462, Phoenix Mill Compound,

Senapati Bapat Marg, Lower Parel,
Mumbai – 400 013

...Petitioner

Versus

1. The State of Maharashtra
represented through
Senior Inspector of Police,
Kolsewadi Police Station,
Kalyan (East), Dist. Thane

2. Dharmendra Pandey,
301, Dashrath Kutir,
Prabhu Ram Nagar,
Kate Manwali, Kalyan (East),
Kalyan

...Respondents

None for the Petitioners

Mr. K. V. Saste, A.P.P for the Respondent No.1-State

None for the Respondent No. 2

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
WEDNESDAY, 30th JANUARY 2019**

ORAL JUDGMENT (Per B. P. Dharmadhikari, J.) :

1 Matters are called out for final hearing. Nobody is present for petitioners or respondent No. 2-complainant. A.P.P appears for respondent No.1.

2 The complainant borrowed loan from M/s. Standard Chartered Bank to purchase a motor vehicle. The motor vehicle was repossessed by creditor and petitioners in both petitions claim that it was after following proper procedure.

3 Respondent No. 2 filed a private complaint vide case No. 543 of 2002 and after orders under Section 156(3) Code of Criminal Procedure (`Cr.P.C'), offence under Sections 379 and 403 r/w 34 of the Indian Penal Code (`IPC') are registered against both the petitioners.

4 Effort of petitioners is to show that they have discharged their obligation to employer and vehicle was repossessed as per law. Ingredients of Section 379 and 403 IPC are, therefore, not satisfied. They are relying upon judgment of the Hon'ble Apex Court in the case of ***Charanjitsingh Chadha & Ors. vs. Sudhir Mehra***¹.

5 Learned A.P.P has pointed out to this Court that orders under Section 156(3) are not supplied to this Court and FIR is also not placed on

1 VI (2001) SLT 312

record. Copy of complaint lodged by respondent No. 2 is also not made available.

6 Though respondent No. 2 is served way back in 2004, he has not filed any reply and opposed the petitions.

7 On 9th March 2004, this Court has, by ad-interim order, stayed the complaint bearing No. 543 of 2002 on the file of Judicial Magistrate, First Class, Kalyan. Thus, this interim order is operating since last about 16 years.

8 In this situation, we find that interest of justice can be met with, by directing trial Court to proceed further in the matter as per law and examine the contentions of the petitioners. Petitioners can seek discharge before that Court, if charge-sheet is filed.

9 However, we clarify that no coercive action shall be initiated against the petitioners till the trial Court finds it necessary by an express order.

10 With these directions and keeping all contentions open, we dispose of criminal writ petitions.

REVATI MOHITE DERE, J.

B. P. DHARMADHIKARI, J.