

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.42 OF 2019

Manohar D. Kotian

...Applicant

vs.

The State of Maharashtra and Ors.

...Respondents

Mr. D. S. Joshi i/b Mr. S. K. Sherikar for the Applicant.

Mr. Nikhil Chaudhari for Respondent No.2.

Smt. Aruna S. Pai, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
N. R. BORKAR, JJ.**

DATE : 24/1/2020.

PC.:

. Strenuous effort by learned counsel for the applicant is to show that order dated 15/3/2017 in Writ Petition 3683/2016 could not have been passed as documents relied upon in support by the petitioner Ali Asgar Petiwala were not genuine. He produced compilation of court orders before this Court.

2. Learned counsel appearing for respondent No.2 however states that the grievance is erroneous. He has taken us to order dated 15/3/2017.

3. After hearing respective counsel we find that this Court on 15/3/2017 placed the matter back before MPID Court for fresh consideration. Thereafter it has passed orders again and those orders are questioned by the person by name Diego Gregory Mathias in Appeal No.1225/2018 before this Court.

4. Applicant No.1 who has acted as agent in the transaction has filed the present proceedings.

5. Order dated 15/3/2017 shows that the grievance of the petitioner that he was not heard by the MPID Court and order has been passed behind his back was accepted. Not only this at that juncture the present applicant also fairly accepted that the petitioner was not heard and thereafter the matter was remanded back to MPID Court. At that juncture this Court was not required to look into the controversy on merit and therefore has not considered any document. It's order dated 15/3/2017 is therefore not influenced by any finding given on any document.

6. We therefore find the present proceeding seeking initiation of action under section 340 of Cr.P.C. unsustainable.

7. We however keep contentions of the applicant open and accordingly dismiss the present application.

8. Compilation of Court orders is returned back to the applicant.

(N. R. BORKAR, J.)

(B. P. DHARMADHIKARI, J.)