

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1382 OF 2018

Parasmal Uttamchandra Pichajain ... **Applicant**

Versus

The State of Maharashtra & Anr. ... **Respondents**

.....

Mr.Ashwin Shetye with Ms.Divya Tyagi i/b. Jayakar & Partners,
Advocate for the Applicant.

Mr.R.M.Pethe, the Additional Public Prosecutor for the
Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 5th FEBRUARY 2020.

P.C. :

1 Heard the learned Counsel appearing for the applicant
at sufficient length of time. He argued that the offence punishable
under Part II of Section 506 of the Indian Penal Code is made
cognizable by Notification of the State and this fact is clear from
the Judgment of the learned Single Judge of this Court in the
matter of *State of Maharashtra v. Rajkumar @ Sitti Kundanlal*

Malhotra¹. It is also urged by the learned Counsel appearing for the applicant that investigation under direction of the learned Magistrate resorting to Section 156(3) of the Code of Criminal Procedure is much wider than a verification conducted by the learned Magistrate and, therefore, the impugned Order needs to be quashed and set aside.

2 I have considered the submissions so made and also perused the Order passed by the learned trial Magistrate rejecting the prayer for directing investigation by police under Section 156(3) of the Code of Criminal Procedure, but asking the applicant herein/complainant to appear before the Court for recording verification statement. That Order came to be upheld by the Revision Court by the impugned Order dated 21/07/2018.

3 In the complaint lodged before the learned trial Magistrate alternate prayers were made by the complainant. First prayer was regarding direction under Section 156(3) of the Code of Criminal Procedure for conducting investigation, whereas the

1 1988 Mh.L.J. 76.

other prayer to issue appropriate process against all accused persons and for punishing them for the offences alleged against them. The learned trial Magistrate proceeded to resort to conduct verification in the matter and that is how he had directed the complainant to appear for verification.

4 In revision, the learned Additional Sessions Judge observed that CCTV footage at the H.D.F.C. Bank is already in custody of the police and the complainant can very well ask for copy of that footage. It is further observed by the learned Additional Sessions Judge that passers-by were unknown and their evidence is not expected to be available. In other words, according to the conclusion arrived at by the learned Revisional Court, the case is based on sole testimony of the victim of the crime in question and, therefore, the Revisional Court concluded that there is no error in the Order passed by the learned trial Magistrate.

5 I am of the considered opinion that the impugned Revisional Order does not suffer from any error of law or

perversity. The application, therefore, fails and the same is rejected.

6 The applicant is free to appear before the learned trial Magistrate, as directed and the learned trial Magistrate shall then proceed to decide the complaint according to law.

(A.M.BADAR, J.)

Raju D.
Gaikwad

Digitally signed
by Raju D.
Gaikwad
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