

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 CRIMINAL APPLICATION NO.102 OF 2021

**SANJAY KRUSHNA PATIL
VERSUS
NITU CHANDRAPRAKASH MUNJAL AND ANR**

Mr. B. R. Waramaa, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State

**CORAM : SURENDRA P. TAVADE, J.
DATE : 21-08-2021**

ORAL JUDGMENT:

. Rule. Rule made returnable forthwith, with the consent of the learned counsel for the parties.

2. Heard learned counsel for the petitioner and learned APP for the respondents/State.

3. Respondent No.1 had filed FIR. In pursuance to the FIR, the Investigating Officer recorded the statements of witnesses and filed charge-sheet. Thereafter, the Investigating Officer has filed report under Section 169. The learned Magistrate had called say of Learned APP and the informant. The informant has filed protest petition. On hearing the parties, the trial court has passed the impugned order on 05-12-2020 which runs as under:-

ORDER

“1. The application for the acceptance of the report under Section 169 of Cr.P.C. dated 08-07-2020 of the Investigating Officer in Crime No. 97/2020, Amalner Police Station against Nayan Amol Patil and Sanjay Krushna Patil stands rejected.

2. The case be registered as Criminal M.A. and the case be posted for recording of the verification statement of the complainant/informant.”

4. Learned counsel for the applicant submits that the trial court has out-rightly rejected the report submitted by the Investigating Officer under Section 169 of the Code of Criminal Procedure. He further submits that the trial court should have called the informant to led the evidence and then the trial court should have decided whether to accept the report under Section 169 of Cr.P.C. or to proceed with the trial as per the evidence led by the informant.

5. But, instead of doing the said procedure, the trial court simply rejected the report of the Investigating Officer with direction that the protest application be registered as a Criminal M.A.

6. Learned counsel for the respondent No.1 submitted that the trial court has rightly registered the protest application but subsequently, the matter is stayed. Therefore, no further action was

taken by the learned Magistrate.

7. On going through the impugned order, it appears that the trial court has rightly registered the Criminal M.A. He should have called upon the informant to adduce any evidence if any and then the trial court should have decided the report submitted by the Investigating Officer. But, it appears that the learned Magistrate has rejected the report filed under Section 169 and simply registered the protest application, meaning thereby that the report of the Investigating Officer has out-rightly rejected without applying its mind. Therefore, clause No.1 of the impugned order is required to be set aside. Hence, this petition is partly allowed.

8. The trial court is directed to hear the protest application and thereafter, decide whether the report under Section 169 is to be accepted or rejected and take necessary steps as per law.

9. With this, criminal application is disposed of.

10. Rule made absolute.

[SURENDRA P. TAVADE, J.]