

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

44 CRIMINAL APPLICATION NO.965 OF 2021

**REENA W/O. SUMEDH PAWAR @ REENA D/O. RAMDAS MORE
VERSUS
THE POLICE INSPECTOR, PHULAMBRI POLICE STATION AND ANR**

...
**Advocate for Applicant : Mukhedkar Amit A.
APP for Respondents: S.P.Sonpawale**
...

**CORAM : MANGESH S. PATIL, J.
DATE : 03.05.2021**

PC. :-

Heard the learned advocate for the applicant.

2] The applicant is invoking powers of this Court under Section 482 of the Cr.P.C. and seeking to challenge the order passed by the learned Magistrate rejecting her application soliciting a direction under Section 156 (3) of the Cr.P.C.

3] The learned advocate Mr.Mukhedkar for the applicant would submit that in fact this is a second round of litigation. Earlier also the Magistrate had refused to issue direction under Section 156(3) of the Cr.P.C. The matter had come to this Court in the form of Criminal Application No.3721/2019. By the order dated 17/2/2020 this Court had set aside the order passed by the Magistrate and had directed him to pass a speaking/reasoned order after hearing the parties. The learned advocate would submit that inspite of such

specific direction, the learned Magistrate has dismissed the application on technical grounds. He has not obeyed the directions of this Court in the order passed in Criminal Application No.3721/2019. The learned advocate would therefore, submit that precisely for this reason he has approached this Court directly.

4] I have carefully gone through the order passed by this Court in Criminal Application No.3721/2019 as also the order passed by the Magistrate which is under challenge. Pertinently, what was expected by this Court while passing the order dated 17/2/2020 in that proceeding is that the Magistrate would pass some speaking/reasoned order. A perusal of the impugned order passed by the Magistrate would clearly demonstrate as to how he has considered the matter on merits and has laboured to point out as to how it is not a fit case for the reasons recorded by him, to issue direction under Section 156(3).

5] It is important to note the learned Magistrate has relied upon the decision in the case of Ms.Priyanka Srivastav V/s State of Uttar Pradesh; 2015 A.I.R. S.C.W. 2075. He observed that the applicant had failed to demonstrate about having followed the mandate of Section 154(3) of the Cr.P.C. The learned Magistrate found that the affidavit filed in support of the application was devoid of specific allegation and the role attributable to each of the proposed accused, besides, there was non-compliance of the mandate of Section 154(3) of Cr.P.C.. It is therefore quite apparent that the Magistrate has passed the order in accordance with the observations and directions of this court while deciding Criminal Application No.3721/2019 and it is not the case that he had rejected the application without any reason.

6] On a query, the learned advocate for the applicant would submit that it is indeed a fact that the applicant had not followed the mandate of Section 154(3) of the Cr.P.C. Needless to state that following the observations of the Supreme Court in the case of Priyanka Srivastav (supra) it is a sine qua non for the Magistrate to invoke the powers under Section 156(3) of the Cr.P.C. Therefore even otherwise, independent of the merits of the allegations, the observation and the conclusion of the Magistrate refusing to invoke the powers under Section 156(3) of the Cr.P.C. on the ground that there is non-compliance of the mandate of Section 154(3) of the Cr.P.C. is unassailable.

7] The application is dismissed in limine.

[MANGESH S. PATIL, J.]

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