

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

911 CRIMINAL WRIT PETITION NO.783 OF 2021

**SANDESH SHIVAJIRAO POTDAR
VERSUS**

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Potdar Eklavya Sandesh
APP for Respondent State: Mr.R.B.Bagul

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**CORAM : MANGESH S. PATIL
DATE : 30/07/2021**

PER COURT :

Heard the learned advocate for the petitioner and the learned A.P.P.

2] It seems that the petitioner who has filed a private complaint is aggrieved by the direction of the Magistrate to the police to conduct inquiry under Section 202 of the Cr.P.C.

3] It appears that the petitioner is aggrieved mainly because the accused respondent no.4 is a Police Officer and since the impugned direction is to police to carry out investigation/inquiry, it may not be fair.

4] The learned advocate points out the decision of this Court in the case of Bismilla Shah V/s State of Maharashtra; 2001 SCC online Bom 918, wherein in similar state of facts and circumstances, instead of directing the police to conduct an inquiry under Section 202 of the Cr.P.C., this Court had directed the Magistrate to hold that inquiry himself under the self same enabling provision.

5] However, conspicuously neither the impugned order demonstrates that any such request was made by the petitioner nor the memo of petition comes out with any such ground, firstly, of making a request to the Magistrate to hold inquiry himself and, secondly, referring to the view of this Court in the case of Bismilla Shah (supra).

6] In view of the above state of affairs, the Writ Petition is dismissed with a liberty to the petitioner to make a fresh request to the Magistrate on the lines discussed hereinabove and directing the concerned Magistrate to consider the request on its own merits uninfluenced by the observations made hereinabove.

(MANGESH S. PATIL, J.)

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