

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

CRIMINAL WRIT PETITION NO. 1462 OF 2020

Mahendra s/o Devidas Vispute,
Age 47 years, Occ. Business,
R/o. 74, Aadarsh Colony, Nakane
Road, Deopur, Dhule, Tq. &
Dist. Dhule.

... **Petitioner.**

VERSUS

- 1) State of Maharashtra,
Through Principal Secretary,
Home Department,
Mantralaya Mumbai-32.
- 2) Superintendent of Police,
Dhule, District Dhule.
- 3) Police Inspector,
Western Deopur Police Station,
Dhule, District Dhule

... **Respondents.**

...

Advocate for the Petitioner : Mr. Mahesh S. Deshmukh.
APP for the Respondent/State : Mr. PG. Borade.

CORAM : **MANGESH S. PATIL, J.**
DATE : **08.02.2021.**

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioner who happens to be the original informant is before this Court being aggrieved and dissatisfied by the order passed by the learned Magistrate dated 13.11.2018 accepting the 'A' Summary Report submitted

under Section 173 of the Code of Criminal Procedure by the Investigating Officer.

3. The learned advocate for the petitioner submits that giving a complete go by to the trite principles, without extending an opportunity of being heard to the petitioner the learned Magistrate has accepted the final report that too without assigning any reasons.

4. The learned A.P.P. submits that the request of the petitioner is innocuous. The matter can be remanded and the Magistrate can be asked to hear the petitioner and pass an appropriate order.

5. Needless to state that since the petitioner is the original informant, he has a right to oppose/contest a final report submitted by the Investigating Officer under Section 173 of the Code of Criminal Procedure when report of the kind ('A' summary) is submitted. Suffice to refer to a decision of this Court in the case of **Kanta Baburao Kamble Vs. The State of Maharashtra; 2014 ALL (Cri) 1051.**

6. The Writ Petition is allowed. The impugned order is quashed and set aside. The matter is remitted back. The learned Magistrate shall now pass order on the final report submitted by the Investigating Officer after extending an opportunity to the petitioner to be heard. The petitioner shall appear before the Magistrate on 02.03.2021. There shall be no need for the Magistrate to issue notice to him.

7. The Rule is accordingly made absolute.

(MANGESH S. PATIL, J.)

mkd/-