

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

909 CRIMINAL APPLICATION NO.2968 OF 2022

LALIT MADHUKAR CHAUDHARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Wani Girish V.
APP for Respondent : Mr. P G Borade

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CORAM : SHRIKANT D. KULKARNI, J.
Dated: September 22, 2022

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PER COURT :-

1. Heard Mr. Wani, learned counsel for the applicant. He invited my attention to the copy of the order passed by the learned Adhoc Additional Sessions Judge, Jalgaon in SC No.13 of 2017 dated 16.8.2022. He submitted that, the application moved on behalf of the first informant u/s 173 (8) of Cr.P.C came to be straight way rejected by the learned trial court though there was sufficient material. He submitted that the impugned order passed by the learned trial court below exhibit 14 in S.C. 13 of 2017 is bad in law. He also invited my attention to the provisions of section 173 (8) of Cr.P.C.

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2. Having regard to the submissions made by Mr. Wani, learned counsel, I have gone through the provisos of section 173(8) of Cr.P.C. On careful study of the provisions of section 173(8), it would reveal that the power of further investigation is vested with the investigating agency. If the application is moved to the investigating agency to that effect for further investigation on behalf of the first informant, the investigation officer is required to consider his application in view of section 173(8) of CrPC. If he did not consider that application, the option is available before the first informant to move the concerned trial court with seeking direction to the police for further investigation.

3. It is revealed during the course of the argument that first informant has not moved such application before the I.O. for further investigation u/s 173(8) of Cr.P.C. Learned counsel Mr. Wani submits that, he would move concerned Investigating officer accordingly and sought liberty to file application. If that application

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is not considered by the I.O., liberty to move the concerned court for further investigation in view of section 173(8) of CrPC be granted. Having regard to the above observations, following order is passed.

O R D E R

- i. Application stands disposed off with following directions :-
 - a] The applicant/first informant shall move an application for further investigation u/s 173 (8) of Cr.P.C. before the concerned investigating officer.
 - b] The concerned investigating officer to consider that application for further investigation according to the provisions of law and take necessary steps.
 - b] If concerned investigation officer did not consider the application moved by the first informant, first informant shall move an application for further investigation u/s 173 (8) of Cr.P.C. before the learned Trial Court/ Adhoc Additional Sessions Judge, Jalgaon and learned Adhoc Additional Sessions Judge, Jalgaon to consider that application according to the provisions of section 173(8)

of Cr.P.C. and in view of the recent decision of the Hon'ble Supreme Court in case of **Vinubhai Haribhai Malviya Vs. State of Gujarat reported in AIR 2019 Supreme Court 5233.**

- ii. In view of above directions, application stands disposed off.

(SHRIKANT D. KULKARNI, J.)

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