

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.398 OF 2015

Shri Kishore Shankarrao Thakare ...Petitioner

Versus

Maniko India Pvt. Ltd.Respondent

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Mr. D.H. Sharma, for the Petitioner.
Mr. Rohan Surve, for Respondent No.1.
Mr. A.R. Patil, APP for the State.

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CORAM : N. R. BORKAR, J.

DATE : 17th JANUARY, 2022.

P.C. :

1. This petition takes an exception to the order dated 27th March 2014 passed by the learned Judicial Magistrate First Class, Pune.
2. The Respondent herein filed the complaint case against the present Petitioner for the offence punishable under Sections 417, 418, 419 and 420 of the Indian Penal Code.
3. On the said complaint on 20th February, 2014, the learned Magistrate passed the following order:

“Heard learned Counsel for Complainant. No justified grounds to send the complaint for investigation u/s 156(3). Hence complainant is directed to remain present for verification.”

The learned Magistrate, thereafter, recorded the verification on 10th March 2014.

4. The learned Magistrate however, thereafter, instead of proceeding further in accordance with chapter- XV of the Code of Criminal Procedure (Cr.P.C), directed the Chatushrungi Police Station to carry out the investigation under Section 156(3) of the Cr.P.C.

5. I have heard the learned Counsel for the parties.

6. By order dated 20th February 2014, the prayer to send the complaint for investigation to the police was refused and learned Magistrate decided to record the verification. The learned Magistrate thereafter in fact recorded the verification of the complainant on 10th March, 2014. It is well settled that order under Section 156(3) can be passed only at pre-cognizance stage. The learned Magistrate was therefore not justified in passing the order impugned after recording verification under Section 200 of the Cr.P.C. Thus, the following order is passed:

ORDER

- i) The petition is allowed.
- ii) The order impugned is set aside. Needless to mention that FIR, if any, registered pursuant to the impugned order shall also

stand quashed and set aside.

iii) The learned Magistrate shall decide the complaint case filed by the Respondent in accordance with chapter- XV of the Cr.P.C.

(N. R. BORKAR, J.)