

VRJ

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

WRIT PETITION NO.2544 OF 2022

Samraj Gold Exports Pvt. Ltd.

... Petitioner

V/s.

The New India Assurance Company Ltd.
& Ors.

... Respondents

Mr. M.M. Chaudhari h/f SK Atique UR Rehman for the
petitioner.

Mr. A.R. Patil, APP for the State.

Mr. Vivek Bhosale, PI, L.T. Marg Police Station.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 14, 2022

P.C.:

- 1.** The petitioner is seeking registration of offences against opponent Nos.1 to 9 under sections 406, 420, 465, 468, 471, 120(B) of the Indian Penal Code, 1860. In a complaint filed by the petitioner, the learned Magistrate issued a process.
- 2.** The order of issuance of process was challenged by some of the accused and some of the accused got relief from the learned Sessions Court. The accused who did not get relief from the learned Sessions Court, have challenged the order in this Court and this Court granted protection to the said accused.
- 3.** The petitioner is, therefore, seeking a direction to pass an

order under section 156(3) of the Code of Criminal Procedure, 1973 to investigate into the offences which is the subject matter of complaint in relation to which proceedings are pending before this Court.

4. It is well settled law that once a person files a complaint before the Magistrate, the learned Magistrate has two options:

a) To direct the investigating agency in exercise of powers under section 156(3); or

b) To take cognizance under section 190 and examine the complainant and issue process under section 294 of the Code of Criminal Procedure;

5. The learned Magistrate has exercised second option by issuing process in relation to offences alleged against the accused in a proceeding filed by some of the accused which is pending before this Court, wherein they are protected by this Court.

6. The remedy of the petitioner is to approach either this Court or to adopt appropriate proceedings which are permissible in accordance with law to get a relief. The direction under section 156(3) of the Code of Criminal Procedure in relation to the offences which are subject matter of complaint under section 200 of the Code of Criminal Procedure cannot be directed.

7. In that view of the matter, there is no merit in the petition. The writ petition is, therefore, disposed of in above terms. No costs.

(AMIT BORKAR, J.)