

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

CRIMINAL WRIT PETITION NO. 1772 OF 2021

Prakash Shivappa Gani & Ors. ... Petitioners
Versus
Baswantappa Channappa Pujari & Anr. ... Respondents

Mr. Umesh Mankapure for the Petitioners.
Mr. Nitin B. Patil for the Respondent No.1.
Mrs. S. D. Shinde, APP for the Respondent No.2-State.

**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 2nd AUGUST, 2023

P.C. :-

. Heard the learned counsel for the parties.

2. We are of the *prima facie* view that the impugned order dated 8th February 2021 passed in exercise of powers under Section 156(3) of the Cr.P.C., is a non-speaking order. The same does not disclose any reasons or application of mind. Having regard to the law laid down by the Apex Court in ***Priyanka Srivastava & Anr. & State of Uttar Pradesh & Ors.*** reported in ***(2015) 6 SCC 287*** and ***Anil Kumar v/s. M. K. Aiyappa***, reported in ***(2013) 10 SCC 705***, the said order dated 8th February 2021 is hereby quashed and set aside.

3. In the facts and circumstances of the case, we deem it appropriate to grant liberty to respondent No.1 to approach afresh

before the Magistrate so as to enable him to canvas the claim put forth in the complaint case.

4. It will not be out of place to observe here that the Magistrate shall be sensitive to the very provisions of Section 41A of the Maharashtra Public Trust Act which proceedings we are informed are already pending against proposed accused.

5. Writ Petition, as such, partly allowed in the above terms.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]