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

WRIT PETITION NO.1705 OF 2016

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Dr. Omprakash B. Soniminde

... Petitioner

V/s.

Ratan B. Datwani & Anr.

... Respondents

Mr. Rishi Bhuta with Mr. Ujjwal Gandhi and Ms.
Gunjan Thakkar for the petitioner.

Mr. Ajay L. Bhise for respondent no.1.

Mr. M.G. Patil, APP for respondent no.2/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 23, 2023

P.C.:

1. The challenge in this writ petition is to the order dated 10th March 2016 passed by the Additional Sessions Judge, Greater Mumbai in Criminal Revision Application No.110 of 2016 setting aside order of issuance of process by the Metropolitan Magistrate 71st Court, Bandra, Mumbai in C.C. No.229/SW/2013 dated 8th October 2015.

2. The revisional Court has set aside the order of issuance of process mainly on the ground that without waiting for report of inquiry under section 202, order of issuance of process was passed.

3. Apart from the said ground, it is urged on behalf of the petitioner that the impugned order permits accused to participate

in criminal proceedings before issuance of process.

4. Learned advocate for the respondent submitted that the ground of non-receipt of 202 inquiry report is factually incorrect as the inquiry report was already placed on record of the Magistrate.

5. In so far as the direction issued by the revisional Court permitting the accused to participate in the proceedings before issuance of process, same being contrary to the well settled principles of law deserves to be set aside. Hence, following order:

a) The impugned order dated 10th March 2016 passed by the Additional Sessions Judge, Greater Mumbai in Criminal Revision Application No.110 of 2016 is quashed and set aside;

b) The proceedings are remanded back to the revisional Court for decision afresh on merits.

6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)