

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.820 OF 2023

Anil Gyan Khasturi	vs.	...Petitioner
The State of Maharashtra and Another		...Respondents

VISHAL
SUBHASH
PAREKAR

Digitally signed
by VISHAL
SUBHASH
PAREKAR
Date: 2024.01.30
11:03:35 +0530

Mr. Subodh Desai i/b. Mr. Nikhil Ghate, for the Petitioner
Mr. Ashok Kumar Dubey a/w. Mr. Anil Pandey, Mr. Akash Sonawale,
Mr. Neha Dubey i/b. SAV Law Solutions, for Respondent No. 2.

CORAM : N. J. JAMADAR, J.
DATE : JANUARY 29, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is an preliminary order passed by the learned Metropolitan Magistrate on 22nd December, 2022 under section 145 fo the Code of Criminal Procedure, 1973 (the Code, 1973).
3. The learned counsel for the petitioner submits that in fact in respect of the very same property, on 17th November, 2021 Versova police had initiated the proceedings under section 144 of the Code, 1973 (page 73). The respondent No. 2 also filed a proceedings vide CC No. 1275/N/2021 on 15th November, 2021.
4. The learned counsel for the petitioner submitted that in the order passed under section 145 of the Code, the learned Magistrate had incorrectly recorded that the applicant in CC No.1275/N/2021

(the respondent No.2) herein is in possession of the subject property. An endeavour was made to demonstrate the said finding could not have been recorded.

5. Having regard to the nature of the impugned order, which is essentially in the nature of a preliminary order, it may not be appropriate to entertain the petition as the proceedings instituted at the instance of Versova police and by the respondent No. 2 herein are still subjudice before the learned Magistrate.

6. It may, therefore, be expedient that both the proceedings are decided by the learned Magistrate simultaneously, as expeditiously as possible.

7. Let the parties appear before the learned Magistrate on 12th February, 2024.

8. The learned Magistrate is requested to make an endeavour to decide both the proceedings as expeditiously as possible and preferably within a period of eight months from the date of the communication of this order.

9. It is hereby made clear that this Court has not entered into the merits of the matter and all questions are kept open for consideration by the learned Magistrate.

Petition disposed.

(N. J. JAMADAR, J.)