

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 2564 OF 2018**

Subhash M. Nunes

....Petitioner.

Vs.

The State of Maharashtra & ors.

....Respondents

Mr. D. A. Nalawade with A.R.Khairnar i/by Ravindra Lokhande for the
Petitioner.

Mr. S.S. Hulke, APP. for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 31st AUGUST, 2018.****P.C.:-**

1. By the present petition the petitioner has questioned the correctness of the Order dated 15.4.2015 passed below Exhibit 1 in Criminal Misc. Application No.287 of 2015 by the learned Judicial Magistrate First Class, 2nd Court, Vasai and the Judgment and Order dated 10.5.2018 passed by the Extra Additional Sessions Judge, Vasai in Criminal Revision No.28/2015, dismissing the said revision.

2. Heard Shri. Nalawade, the learned counsel for the petitioner and the learned APP. Perused the record.

3. The petitioner is the original complainant. The petitioner has filed the said Criminal Misc. Application No.287/2015 before the learned Judicial Magistrate, First Class, Vasai for lodgment of the

crime against the accused persons mentioned in the said complaint, with a prayer to direct the police to investigate the said crime under Section 156(3) of Cr.P.C.

4. The record indicates that, the learned Magistrate after perusing the complaint and documents annexed thereto was pleased to direct the petitioner to enter into witness box with a view to examine himself under Section 200 of Cr.P.C. The record indicates that as the petitioner was not satisfied with the said Order, he preferred revision application before the learned Extra Additional Sessions Judge, at Vasai which has been dismissed by the revisional Court. It is well settled principle of law that, the Magistrate has discretion either to direct investigation under Section 156(3) of Cr.P.C. or to conduct enquiry either by himself or through any other agency including the police department under Section 203 of Cr.P.C. or direct the complainant to lead evidence either with a view to issue process under Section 204 or to dismiss the complaint under Section 203 of Cr.P.C. The learned Magistrate by using its discretion has directed the complainant to enter into the witness box and to examine himself under Section 200 of Cr.P.C.

5. After perusing the record, this Court is of the view that, the

learned Magistrate has not committed any error in passing the impugned Order. Likewise the Judgment and Order passed by the learned Extra Additional Sessions Judge, Vasai does not suffer any infirmity .

6. In view thereof, petition is rejected.

(A.S. GADKARI, J.)