

ORDER BELOW EXH.01

In the present case the accused – Ashish Vijay Mutkure is prosecuted for the offence of section 211 of the I.P.C. The brief facts of the case are that the accused lodged false report under section 307 of the I.P.C against unknown persons. The accused admitted of lodging the false case in the statement recorded under section 164 of the Cr.P.C. Accordingly the P.S.O, Tirora has moved “B” final report which was ultimately accepted by this court and directions were also given to register the said “B” final as R.C.C against the accused.

2. At this juncture the ruling of the Hon’ble Bombay High Court reported in **1941 SCC Online Bom 40** between **Emperor Vs. Karsan Jesang** is material one. In the supra case the division bench comprising of the Hon’ble Chief Justice of Bombay High Court has held that if a case gets no further than a police inquiry then it falls in first part of section 211 of the I.P.C which is triable by judicial magistrate first class irrespective of the triability of the offence.

3. It is pertinent to note that in the present case the accused herein had lodged complaint under section 307 of the I.P.C. If hurt is caused then the said offence carries punishment of imprisonment for life. Thus, in my view the supra case is squarely applicable to the facts of the present

case as the case got no further than a police inquiry. Therefore, I hold that the present case falls under the first part of section 211 of the I.P.C and it is triable by judicial magistrate of first class.

4. Moreover, in the present case looking to the nature of the offence and circumstances of the case, in my view it is necessary to direct the police inquiry under section 202 of the Cr.P.C. Hence, I proceed to pass following order.

ORDER

The P.S.O Tirora is directed to carry out inquiry under section 202 of the Cr.P.C in the present case within 3 months from the date of this order.

Date : 10/09/2018
Place : Tirora

(R. D. Bhuyarkar)
JMFC