

MHSN030000402021



ORDER BELOW EXH. 1 IN CRIM.A. No. 42/2021
(Milind Khadilkar & Ors v. Datta Indian Pvt. Ltd)

1. Read protest petition at Exh. 8. Heard the arguments advanced by the learned advocate of the complainant. It has been observed in the ordered below Exh. 1 dated 13/10/2022 that complainant to submit say with regard to the report of the officer in-charge of police station concerned or to file protest if any. It was further observed in the said order that, the complainant failed to mention the amount of interest or fact of interest within the purport of Section 3A of the Sugarcane Control Order 1966. In this protest petition to the learned counsel of complainant submits that, the interest of 15% p.a ought to have been given to the complainant because the delay has been caused the accused to provide the FRP amount within 15 days. The court shall take note of this fact. Similarly, it is necessary to have process to be issued under Section 3 and 7 of Essential Commodities Act against accused, court can taken cognizance of this fact on its own motion without there being any explicit or implicit pleading in this regard.

2. Having considered the respectful submission of the learned counsel of complainant, I deem it apt to mention here that it is a well known pristine principle under the Criminal Administration of Justice that, unless Magistrate applies his mind to the facts, documents and verification on record, he would not get jurisdiction to pass any order under Section 204 of Cr. P.C. Same principle applies *mutatis mutandis* to order under Section 156 (3) of Cr. P.C. The order of issuance of process being judicial order has to be passed carefully by exercising due diligence and due caution albeit it is supposed to be precise in nature. Without having any pleading with regard to

protest petition or any explicit material on record with regard to protest petition, the court could not jump to pass order directly without necessary pleading in the complaint. Therefore, the learned counsel of accused may take appropriate steps with regard to inclusion of material pertaining to interest within the purport of Section 3A of Sugarcane Control Order and Section 3 and 7 of the Essential Commodities Act. As of now, it is difficult to pass any order under Section 204 of Cr. P.C. nor an order under Section 203 of Cr.P. C. could be fetched because without opportunity to complainant to take appropriate stand such an order would entail farcical consequences. Hence, order accordingly for compliance. Resultantly, I proceed to pass following order.

ORDER

Complainant to comply and take steps.

Date :- 08/03/2023.

(Wahab A. Syed)
3rd Judicial Magistrate First Class,
Sangli.

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer :- A.P.Patil.
Name of the Court :- 3rd Jt. Civil Judge Jr. Dn & J.M.F.C., Sangli.
Date of decision :- 08.03.2023
Order signed by P.O. on :- 08.03.2023
Order uploaded on :- 09.03.2023