

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 CRIMINAL WRIT PETITION NO.672 OF 2022

JAYWANT RAMCHANDRA KADAM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Thorat Chandrakant R.
APP for Respondent : Mr. R D Sanap

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CORAM : SHRIKANT D. KULKARNI, J.
Dated : August 19, 2022

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PER COURT :-

1. The petitioner has challenged the order passed by the learned Judicial Magistrate First Class, Naigaon Bz., whereby the Judicial Magistrate First Class refused to forward the complaint for investigation in view of section 156 (3) of the Criminal Procedure Code, which was upheld in the Criminal Revision at the hands of Additional Sessions Judge, Biloli.

2. Heard Mr. Thorat, learned counsel for the petitioner and Mr. Sanap, learned APP for the respondent/State.

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3. Mr. Thorat, learned counsel for the petitioner vehemently submitted that both the Courts below have committed an error while refusing the prayer for investigation. Both the Courts below have not used judicial discretion in a proper way. It was a fit case for investigation through the police under section 156(3) of the Cr.P.C. He, therefore, urged to quash and set aside the impugned orders passed by the Courts below.

4. Mr. Sanap, learned APP for the State supported both the orders. He submitted that the learned Magistrate has applied his judicial mind and by recording reasons has turned down his prayer for investigation under section 156(3) of the Cr.P.C. and it was upheld by the learned Additional Sessions Judge, Biloli. No interference is called for.

5. I have considered the submissions of Mr. Thorat learned counsel for the petitioner and Mr. Sanap, learned APP for the State. I have also gone through the impugned order passed by the learned Judicial Magistrate First Class, Naigaon Bz dated 21.10.2021 and

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the impugned judgment and order passed in criminal revision no.20 of 2021 dated 22.2.2022.

6. It is main contention of the present petitioner that both the Courts below have erroneously refused the prayer to forward the complaint for investigation under section 156(3) of the Cr.P.C. On going through the impugned orders, it is evident that the petitioner has collected certain information under right to information Act. On that basis, he has knocked the doors of police station, but no cognizance was taken. He then knocked the doors of the Judicial Magistrate First Class Court by filing private complaint. Learned Magistrate after having gone through the allegations made in the complaint and the documents on record, observed in paragraph no.9 which is important. It is observed by the learned Magistrate that entire case is depending on documentary evidence. As such, custodial interrogation of the petitioner at the hands of the police is not necessary. By observing all this, it is concluded by the learned Magistrate that there is no need to forward the

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complaint for investigation under section 156(3) of Cr.P.C. That finding is upheld by the learned Additional Sessions Judge, Biloli. I do not see any error on the part of the both the Courts below. The learned Magistrate has applied his judicial mind having regard to the facts of the case and turned down the prayer for investigation under section 156 (3) of Cr.P.C. I do not see any perversity in the order. After all it is discretion of the Magistrate which mode should be adopted either he may send the complaint to the police under section 156 (3) of the Cr.P.C. or conduct inquiry himself having regard to the facts of the case. I do not find any merit in the petition. The petition must fail. Writ Petition stands dismissed.

(SHRIKANT D. KULKARNI, J.)

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