

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

41 CRIMINAL WRIT PETITION NO.1033 OF 2022

SANJAY BHASKARRAO KALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Petitioner : Miss P S Talekar
APP for Respondent : Mr. G O Wattamwar

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CORAM : SHRIKANT D. KULKARNI, J.
Dated : September 05, 2022

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PER COURT :-

1. Heard Miss. Talekar, learned counsel for the petitioner. She vehemently submitted that, learned Judicial Magistrate First Class, Court No.3, Rahata was pleased to turn down the prayer for investigation through police under section 156 (3) of the Cr.P.C. as well as the prayer for directions to police to register the FIR in view of section 154 of Cr.P.C. She submitted that the impugned order paragraph no.5 itself indicates that this petitioner has filed various complaints to Shirdi Police Station as well as other authorities to register the crime in respect of misappropriation of donation amount of the devotees. The petitioner has also

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addressed his complaints to the Superintendent of Police, Ahmednagar, Superintendent of Police, Anti Corruption Department, Nashik. Even, then, the learned Magistrate has observed in the order in paragraph no.12 that no compliance is made under section 154 (1) and 154 of Cr.P.C. She submitted that the observations made by the learned Magistrate are erroneous in the eye of law when copies of complaints are already placed on record and secondly learned Magistrate has observed about filing of complaints to various authorities in its paragraph no.5 of the order.

2. She further pointed out that on 18.7.2022 the petitioner has also filed recent complaint to the Superintendent of Police, Ahmednagar raising all these grievances including registration of FIR etc. She submits that the petitioner is raising public cause. It is necessary to have indetail investigation on the basis of the complaints filed by this petitioner. She submitted that the impugned order needs to be quashed and set aside with direction that the learned Magistrate may

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take decision afresh in view of the material placed on record by the petitioner including copies of the complaints addressed to the P.I. of Police Station Shirdi and copies of the complaints addressed to the Superintendent of Police, Ahmednagar and Superintendent of Police, Anti-corruption Department, Nashik.

3. Mr. Wattamwar, learned APP for the State fairly conceded about the copy of complaint addressed to the Superintendent of Police, Ahmednagar dated 18.7.2022 and copy of the complaint addressed to the P.I. of Shirdi Police Station dated 13.7.2022.

4. Having considered the submissions of Miss Talekar, learned counsel for the petitioner and Mr. Wattamwar, learned APP for the State, I have gone through the impugned order passed by the learned Magistrate dated 5.7.2022. On going through the impugned order, more particularly, paragraph no.5, it indicates that the petitioner has placed on record copies of complaints addressed to various authorities including

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P.I. of Shirdi Police Station and other authorities raising grievance about misuse of donation amount of the devotees coupled with other issues. Even, learned Magistrate went on observing in the concluding paragraphs that the petitioner has not complied with the provisions of section 154 (1) and 154 (3) of Cr.P.C. Even recently the petitioner seems to have filed complaint with the PI of Police Station Shirdi as well as copy to the Superintendent of Police, Ahmednagar.

5. In view of this recent development, it would be just and proper to issue directions to the Magistrate to decide the fate of the matter afresh, by giving an opportunity of being heard to the petitioner and his Advocate. If that exercise is made, it would meet the ends of justice. It is further pointed out by Miss Talekar, learned counsel for the petitioner that since the impugned order is passed by the learned Judicial Magistrate First Class, Court No.3, Rahata, the matter may be transferred to any other Judicial Magistrate First

Class, Rahata in order to have a fair decision in the matter. That prayer needs to be allowed.

O R D E R

- i. Writ Petition stands allowed.
- ii. The impugned order passed below exhibit 1 in Cri.MA No.207 of 2021 by the Judicial Magistrate First Class, Court No.3, Rahata dated 5.7.2022 is hereby quashed and set aside.
- iii. The proceedings of Criminal M.A. No.207 of 2021 is restored to its original position and it is transferred to the Judicial Magistrate First Class, **Court No.1**, Rahata for fresh decision in the background of recent complaints addressed to the Police Inspector, Shirdi Police Station and the Superintendent of Police, Ahmednagar.
- iv. With these directions writ petition stands disposed off.
- v. The petitioner is at liberty to place on record the copies of the complaints addressed to the Police Inspector, Shirdi Police Station, copy of the complaint addressed to the

Superintendent of Police, Ahmednagar in the above said proceedings.

- vi. The learned Judicial Magistrate First Class, Court No.1, Rahata may decide the application afresh by taking into consideration this recent material as well as earlier material produced by the petitioner.

(SHRIKANT D. KULKARNI, J.)

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