

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 604/2022.

Subhash Radheshyam Agrawal.

-Versus-

Prakash Radheshyam Agrawal and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.A.D. Patil, Advocate for the Petitioner.
Mr.S.M. Ukey, Addl.P.P. for Respondent No.3.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 20, 2022.

Heard.

2. The petitioner has filed an application bearing No.824/2013 in the Court of Judicial Magistrate First Class seeking directions for registration of Crime against respondents for offence punishable under Sections 435, 436 read with Section 34 of the Indian Penal Code. The learned Magistrate on perusal of the available material was pleased to dismiss the application. The said order was carried in revision, wherein also the Revisional Court did not find substance and accordingly the revision was dismissed, which is impugned in the present writ petition.

3. The learned Counsel appearing for the petitioner has argued that both the Courts below have erred in declining to direct the police to register the crime. According to him, the essential ingredients to constitute the alleged offence have been made out in the application, and therefore, the Magistrate ought to have issued directions as prayed for.

4. Perused the application as well as, both the impugned orders. Concededly the alleged incident took place on 12.07.2006, in which the respondent has tampered electric supply provided to the house of the petitioner, by which fire broke down and therefore, respondents have committed mischief by fire. The learned Magistrate took a note that though the incident occurred on 12.07.2006, the application to the Magistrate was filed after two years and eight months, meaning thereby there was inordinate delay. On account of said delay, no explanation is given in the original application. On query, the learned Counsel for the petitioner has submitted that there are near about 20 cases pending in between the parties who are real brothers and therefore, the petitioner was not attentive. More reason to say that the petitioner was well acquainted with the legal proceeding, still for a long period of 7 years, he has not put his grievance. Admittedly the petitioner has not reported the matter to the higher officers of the police,

on perceiving that his report was not considered by the police station officer.

5. It reveals from the impugned order that after lapse of 7 years, nothing remained to be investigated. The petitioner has not produced the inspection report of the electrician or private person from whom the house was inspected. Moreover, no panchnama was carried out. While exercising powers under Section 156[3] of the Code, which is pre-cognizance stage, the Magistrate is expected to apply his mind to the limited extent to find out whether a cognizable case is made out to issue directions. It is not expected to issue mechanical directions on mere asking. Registration of crime is a serious affair. Here the incident of fire allegedly took place, for which there is no supporting material. After 7 years grievance has been put forth. Both the Courts below have rightly exercised their discretion in declining to issue directions. I do not find any reason to interfere with the findings recorded by both the Courts below. The Writ Petition being devoid of merits, the same is dismissed.

JUDGE.