

Ghuge

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3487 OF 2021

Dnyaneshwar Shantram Rode	... Petitioner
V/s.	
Dilip Namdeo Dherenge and Ors	... Respondents

Mr. Priyal G Sarda for the petitioner.

Mr. Suresh D. Bame for respondent No.1.

Mr. A.R. Patil, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 13, 2023

P.C.:

1. The petition is directed against the order dated 17th February, 2020 passed by learned Additional Sessions Judge, Khed-Rajgurunagar, Dist-Pune in Criminal Revision Application No.2 of 2020 and confirming the order dated 30th December, 2019 in Criminal Miscellaneous Application No.639 of 2019 passed by learned J.M.F.C. Court No.1, Khed-Rajgurunagar.

2. The petition arises out of filing of complaint by the applicant bearing in Criminal Miscellaneous Application No.639 of 2019. The complaint was filed alleging offence under Sections 405, 420, 467, 468, 471, 473 read with section 120 B of the Indian Penal Code, 1860. The request for investigation under Section 156(3) Code of Criminal Procedure, 1973 was made. The learned Magistrate by order dated 30th December, 2019 directed verification of the complaint by the complainant before the

issuance of process. This order was made subject matter of challenge before the learned Revisional Court.

3. The learned Revisional court by the impugned order dismissed the revision based on Two grounds.

i) Applicant is one of the trustee and accused is another trustee in the same trust. The dispute appears to be in respect of the Trust.

ii) Earlier similar complaint filed by the petitioner was directed to be verified and was fixed for recording verification.

4. Based on aforesaid Two grounds learned Additional Sessions Judge thought it fit to adopt same course of action as directed while deciding earlier complaint on the same allegations.

5. I, therefore, find no illegality in the exercise of the power by the courts below.

6. The reliance placed in the judgment of the Single Bench of this Court in the Case of **Baban Bhagaji Makale Vs. The State of Maharashtra** in Criminal Writ Petition No.301 of 2021 dated 31st August, 2021 is of no help to the petitioner as this Court held that while declining exercise of power under Section 156(3), the Magistrate is mandated to record brief reasons for his decision. On perusal of the order of the courts below, it appears that both the courts have supplied plausible reasons for arriving at the conclusion of the direction to record the verification.

7. The judgment in the case of **Santosh Kumari Vs. State of U.P** reported in 2007 CriLJ 3869 wherein Allahabad High Court observed that in the facts of the case the essential ingredients of

cognizable offence were made out and therefore the direction was issued to hold an inquiry under Section 156(3) of the Code of Criminal Procedure, 1973. Ultimately, it depends on the nature of the allegations made against the accused persons in the facts of the case for framing the charge the offence is alleged is under Section 393, 307 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959. In that view of the matter, the judgment is of no help to the applicant.

8. Considering the reasons given by the courts below there is neither error of jurisdiction nor miscarriage of justice. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)