

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

Criminal Application No. 1461 of 2022

Ashvinikumar Gowtamrao Jamdade - Applicant.

Age-47, Occupation-Advocate Practice

Address-S.No.8+9/18+19, Lane No.2,

Near Ganpati Temple, Below Canal,

House No.62, Karvenagar,

Pune-411052

V/S

CHITRA
SANJAY
SONAWANE

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1] State of Maharashtra,
Warje Malwadi Police Station,
Canal Road, Near Shree Omiya
Garage, Pune

2] Girls Father, Age-60 years
Warje Malwadi, Pune

3] Anand B. Bagul
Age-70,
Address-S.No.8+9/18+19, Lane No.2,
Near Ganpati Temple, Below Canal,
Nandadeep, House No.63, Karvenagar,
Pune-411052

4] Hanumant S. Godse
Age -70,Address -S.No.8+9/18+19,
Lane No.2,Near Ganpati Temple, Below
Canal, House No.32, Opposite Subhadra
Banglow, Karvenagar, Pune-411052

- Opponent

Mr Ashvinikumar G. Jamdade, petitioner-in-person.
Mr MG Patil, APP for State.

Coram : R.N. Laddha,J.

Date : 1 December 2023.

P.C.:

The complainant/applicant has filed this criminal application to challenge the orders of both the Courts below that denied his request to issue a direction under Section 156(3) of the Code of Criminal Procedure, 1973 (for short, 'CrPC'), to send his complaint for investigation by police. The complainant has filed the complaint against the respondents/accused for the offences punishable under Sections 323, 324, 120 read with 34 of the Indian Penal Code (IPC) and the Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013. By this order, the learned Magistrate, instead of sending the complaint for police investigation under Section 156(3) CrPC, directed the complainant to record his verification statement.

2. The applicant claims to be a practising Advocate. It is alleged in the complaint that some girls were residing on rent in the house belonging to respondent No.4. He saw the victim girl while going to the house of respondent No.3. On

28.8.2017, he saw a person beating the drum, and from that day, aghori practice or black magic was done on him at night, endangering his life. He is experiencing pain in his chest and head. Therefore, he lodged a complaint with the Warje police station on 15.2.2018. As the police did not take cognizance of his complaint, he filed a private complaint case bearing RCC No.3629 of 2018 before the learned JMFC, 10th Court, Pune and requested to send his complaint for police investigation under Section 156(3) CrPC. However, the learned Magistrate rejected his prayer of police investigation under Section 156(3) CrPC. Therefore, he filed a Criminal Revision Application bearing No.10 of 2019 before the learned Additional Sessions Judge, Pune. The learned Additional Sessions Judge, by his order dated 23.1.2020, however, dismissed the revision application. Being aggrieved and dissatisfied with the orders passed by the Courts below, the applicant preferred this criminal application.

3. Heard the complainant/applicant who is present in person, and Mr MG Patil, learned Additional Public Prosecutor for the respondent/State.

4. After examining the complaint, it is revealed that the complaint does not mention the name and address of accused

No.1, instead referring to him as “father of the girl”. The allegations of black magic are made against accused No.1 by stating that because of this black magic done to the complainant, he is experiencing pain in his chest and head. The complainant is not claiming that he saw accused No.1 while performing black magic, nor is he claiming that accused No.1 ever came in his contact. The allegations against accused No.2 and 3 are that they allowed their house to be occupied on rent by the girls without verifying what those tenants are doing. All these allegations are non-specific, vague and omnibus.

5. In such circumstances, no case is made out to send the complaint for investigation by police under Section 156(3) CrPC. The Courts have properly exercised their discretion to reject the prayer of the applicant to direct police investigation under Section 156(3) CrPC and have rightly passed the order. As such, the present criminal application stands dismissed.

[R.N.Laddha,J.]