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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

ON THE 29th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 3441 of 2024

BETWEEN:-

**ABHAY SINGH TOMAR S/O SHRI SHIVBAHADUR SINGH
TOMAR, AGED ABOUT 39 YEARS, OCCUPATION:
SEVANIVRAT SAINIK GRAM MYASI TEH PORSA
DISTRICT MORENA HAL NIWASI GOVARDHAN
COLONY GOLE KA MANDIR GWALIOR (MADHYA
PRADESH)**

.....APPLICANT

(BY SHRI J.K. JAIN - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH INCHARGE
POLICE STATION THROUGH POLICE THANA
GOLE KA MANDIR DISTRICT GWALIOR
(MADHYA PRADESH)**
- 2. GYARAM BAGHEL S/O LATE SHRI RANDHEERA
BAGHEL, AGED ABOUT 64 YEARS, GRAM
JADERUA KLA (MADHYA PRADESH)**
- 3. DASRATH BAGHEL S/O LATE SHRI RANDHEER
BAGHEL, AGED ABOUT 64 YEARS, GRAM
JADERUA KLA (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VIJAY SUNDARMA - PANEL LAYER)

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*This application coming on for admission this day, the court passed the
following:*

ORDER

The present petition under Section 482 of Cr.P.C has been preferred
seeking direction to the police authorities to file challan in crime no. 139 of 2023

registered at police Gole Ka Mandir, Gwalior

2. At the outset, learned Public Prosecutor for the State submits that the relief which has been sought by the petitioner is not maintainable in the light of the judgment rendered by the Hon'ble Apex Court in the case of **Aleque Padamsee and others Vs. Union of India and others, (2007) 6 SCC 171, Sakiri Vasu Vs. State of U.P., 2008 AIR SCW 309 and Shweta Bhadauria Vs. State of M.P. And others, 2017 (1) MPJR 247** and the proper remedy available to the petitioner is to approach the competent Court of criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C., and therefore, the present petition under Section 482 of Cr.P.C is not maintainable.

3. Encountered with the submissions made by learned Public Prosecutor for the State, learned counsel for the petitioners submits that though as per the directions of the Hon'ble Apex Court the remedy available to the petitioner is before competent Court of Criminal Jurisdiction, but as per the provisions contained under section 173 of Cr.P.C this Court can direct the police officials to complete the investigation as early as possible, and therefore, status report with regard to investigation done by the police officers be called for and they may further be directed to carry out the investigation properly.

4. After hearing the rival contentions, this Court finds that the issue with regard to directing the police officials to conduct proper investigation and file challan before the competent court of jurisdiction is no more *res integra*, in the judgments cited by the learned counsel for the respondent/State the issue is very well settled that such type of directions can only be given by the Judicial Magistrate of competent criminal jurisdiction under the provisions of section 156 (3) of Cr.P.C.

5 . In the light of the aforesaid, this petition being devoid of any substance is hereby **dismissed**. The petitioners are at liberty to approach the concerned Judicial Magistrate for redressal of his grievance.

(MILIND RAMESH PHADKE)
JUDGE

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