

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

**SATISH
RAMCHANDRA
SANGAR**

CRIMINAL REVISION APPLICATION NO. 85 OF 2024

Digitally signed by
SATISH RAMCHANDRA
SANGAR
Date: 2024.07.16
19:13:15 +0530

Sheela Sushilkumar Madhumal

...Applicant

vs.

**Udyam Vikas Sahakari Bank Ltd., Pune
and Ors.**

...Respondents

Mr.Punit Sanjay Gehi:-	Advocate for Applicant.
Mr.Niville D. Deboo i/b. Mr.Rajesh Kothari:-	Advocate for Respondent Nos.1 to 3.
Mr.H.J.Dedhia:-	APP for Respondent No.4 – State.

CORAM : S. M. MODAK, J.

DATE : 11th JULY 2024

P. C. :-

1. Heard learned Advocate for the Applicant – Complainant, learned Advocate for Respondent Nos.1 to 3 and learned APP.
2. The only issue involved in this Revision is, whether the learned Magistrate was justified in ordering an enquiry under Section 200 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”). He has refused to order an investigation under Section 156(3) of the Code.
3. The complaint was filed on the basis of cause of action that took

place on 18th May 2022. The Tahsildar – Pune City took a possession of the Flat at Annapurna Apartment, Aundh, Pune as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“**SARFAESI Act**”). Her grievance is, there were golden and silver ornaments and cash amount lying in the Flat but it was not shown and theft and misappropriation is committed.

4. There were some dispute in between her and the Respondent No.1 -Bank in respect of arrears of loan. Some Writ Petitions were also filed. There were some talks about one time settlement.

5. No doubt, she has made a complaint about taking possession forcibly to the Chaturshrungi Police Station on 25th March 2023. (Page No.72) and afterwards also.

6. I have gone through the order. While refusing the order of investigation, the learned Judge has referred about the seizure panchnama dated 18th May 2022. It is recorded that no valuables were noticed in the said Flat.

7. So, there were two versions one as contended by the Complainant and another as reflected in the panchnama. This Court is not supposed to decide whether the allegations are *prima facie* correct

or not. The only issue is, whether an order under Section 156(3) of the Code is warranted.

8. It is true that the Police are bound to register the FIR if cognizable offence is disclosed and if the Police fails to register the FIR, the aggrieved person is having right to approach the Court and seek an investigation under Section 156(3) of the Code.

9. It is true that in certain cases, that order is required. It is also true that once such order is passed, it has got drastic consequences. So, the Hon'ble Supreme Court has cautioned the Courts while passing such orders.

10. After reading the impugned order, I do not find that there is any illegality. Because panchanama is already prepared which do not justify the allegations of the applicant. So, no interference is warranted. The Applicant is at liberty to proceed under Section 200 of the Code as directed by the Magistrate.

11. In view of that, Revision Application is disposed of.

12. Pending Interim Applications, if any, also stand disposed of.

[S. M. MODAK, J.]