

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

CRIMINAL REVISION APPLICATION NO. 188 OF 2024

Ankush S. Khaire

...Appellant

vs.

Vaishali Shinde

...Respondent

Mr. Vaibhav D. Kadam a/w. Mr. Shreenath Badade and Mr. Kalpesh Karkera :-	Advocates for Applicant.
Ms. S. E. Phad :-	APP for Respondent.

CORAM : S. M. MODAK, J.

DATE : 7th AUGUST 2024

P. C. :-

1. Heard learned Advocate for Complainant. His Application for investigation under Section 156 (3) of Criminal Procedure Code [Cr.P.C.] is turned down by the Court of Judicial Magistrate First Class, Pune on 29th December 2023. Legality of the said order is challenged by way of this Revision.

2. Learned Magistrate in paragraph No.9 observed “nature of dispute is not cover under criminal liability”. That is why investigation under Section 156 (3) of Cr.P.C. is turned down. Learned Advocate for Applicant invited my attention to the following documents :-

- (i) Confirmation letter dated 17th November 2022. (Page-32). This was issued after the alleged incident.
- (ii) Notice dated 29th November 2022 of defamation issued to HR Manager and CEO of Digikore Studios Pvt. Ltd., Pune.
- (iii) Letter of termination dated 13th December 2022 his services were terminated due to misconduct and misbehaviour.
- (iv) Copy of complaint made to Yerwada Police Station.
- (v) Copy of notice reply sent through the learned Advocate for Applicant.
- (vi) Copy of statement dated 20th December 2022 recorded by the Yerwada Police Station.
- (vii) Copy of note signed by the Applicant and by the management representatives. The Applicant was advised to take recourse before appropriate authorities (it is not clear it is signed before which authorities).
- (viii) During arguments, it is submitted before me that the Police have advised him no criminal action can be taken.

3. Considering the submissions I am not inclined to interfere in the order for two reasons :-

- (i) The observation made in paragraph No.9 that there is no criminal liability. I find no reason to disagree to those observations and
- (ii) There cannot be an order under Section 156 (3) of Cr.P.C. if the offence is punishable under Section 500 of IPC. Because said

offence is non-cognizable offence and directions for investigation under Section 156 (3) of Cr.P.C. can be given only when there is cognizable offence. In fact learned Magistrate has overlooded this fact. He could have dismissed the application on this ground only.

4. Hence the following order :-

ORDER

- (i) The Revision stands dismissed.
- (ii) Applicant is at liberty to take appropriate steps to redress his grievance arising out of the incident dated 3rd November 2022 before appropriate forum.

5. Copy of this Order be send to Learned Magistrate for information.

[S. M. MODAK, J.]

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