



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.155 OF 2024

Ravindra Vitthal Pujari

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) The Superintendent of Police,
Office at Latur, Tq. & Dist-Latur,
- 3) Balaji Bapurao Tondare

...RESPONDENTS

...
Mr. Narendra D. Sonavane Advocate for Petitioner.
Mr. G.A. Kulkarni, A.P.P. for Respondent Nos. 1 and 2.
Mr. Ravindra V. Gore Advocate for Respondent No.3.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 11th MARCH, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Heard learned Advocate for the petitioner and the respondents. Present Petition has been filed for following reliefs:-

"B) Quash and set aside the communication/ order dt.
19.10.2023 issued by respondent no. 2 rejecting sanction

U/Sec. 197 of Cr. P.C. to lodge separate FIR against respondent no. 3

C) Issue writ of mandamus or writ in the nature of direction to respondent no. 2 to grant sanction u/sec. 197 of Cr.P.C. to lodge separate complaint against respondent no. 3."

2. It is to be noted that specific mention has been made to Section 197 of the Code of Criminal Procedure. The application appears to have been made by the petitioner to lodge the First Information Report (for short "the FIR") against respondent No.3, who is a public servant. The first and foremost fact to be noted is that while giving the title, the petitioner has given the age of respondent No.3 as 63 years and it is stated that he is retired. He was the investigating officer investigating the FIR vide Crime No.182 of 2017. He had recorded statement of daughter of petitioner i.e. Menka Ravindra Pujari, aged 17 years on 26th October 2017 and then she says that there is some insertion with some different ink at a later point of time in her statement under Section 161 of the Code of Criminal Procedure. It appears that she had also filed affidavit before the learned Judicial Magistrate First Class, Devni in R.C.C. No.70 of 2018 on 24th June 2019. Exhibit-4 was filed by the informant therein i.e. present petitioner that one Tukaram Datta Patil should be made as co-accused so also present respondent No.3, who was the

then investigating officer. That application has been partly allowed by the learned Judicial Magistrate First Class on 8th June 2021. Said Tukaram Datta Patil was added as accused No.7 and process was issued against him. But the second prayer of proceeding against respondent No.3 has been rejected and in Paragraph No.5 of the order the learned Magistrate has observed that ASI Tondare cannot be made as accused as the offence is different and it requires sanction from the competent authority under Section 197 of the Code of Criminal Procedure. Thereafter it appears that application was made before the Superintendent of Police, Latur for according sanction and it came to be rejected on 24th September 2021. Learned Advocate further pointed out that the said order passed by the Superintendent of Police was challenged in Criminal Writ Petition No.1500 of 2021 before this Court and it was rejected stating that the application was not in proper format, but liberty was given to the petitioner to approach the appropriate authority and appropriate authority was directed to consider such application if made, upon its own merits. It appears that thereafter the communication was made to respondent No.2 afresh and then it has been rejected by impugned order dated 19th October 2023.

3. Important point to be noted here is that the petitioner wants to invoke Section 197 of the Code of Criminal Procedure to lodge separate FIR against respondent No.3. Section 197 of the Code of Criminal Procedure states about prior sanction to prosecute public servant and without that no Court shall take cognizance of such offence. As regards lodging of FIR, Section 197 of the Code of Criminal Procedure will not be attracted and therefore, there is no question of issuing writ of mandamus. We will not consider any other circumstance even on merits for the simple reason that the writ petition itself appears to be misconceived.

4. The Writ Petition stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE