



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 399 OF 2025

Ratansing s/o. Mansing Dhobal,
Age: 67 years, Occu. Agri.,
R/o. Dhasla, Tq. Badnapur,
District Jalna.

... Petitioner

Versus

1. Ram S/o. Shamrao Patil
Age: 47 years, Occ. Sarpanch,
R/o. Dhasla, Taluka Badnapur,
District Jalna.

2. Sahebrao S/o. Kakaji Kadam,
Age: 44 years, Occ. Employment Servant,
R/o. Dhasla, Taluka Badnapur,
District Jalna.

3. The State of Maharashtra,
Through Police Station, Badnapur,
District Jalna.

... Respondents

...

Advocate for Petitioner :Mr. Ade Ravindra B.

Advocate for Respondent Nos. 1 & 2 : Ms. P.K. Apache h/f.

Mr.R.D.Biradar

APP for Respondent No. 3 : Mr. P.M. Kulkarni

CORAM : ABHAY J. MANTRI, J.

DATE : 17th NOVEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally by the consent of the learned advocates for the parties at the admission stage.

2. By this petition, the petitioner is challenging the judgment and order dated 12.07.2024, passed by learned Additional Sessions Judge, Jalna, whereby, dismissed the Revision and confirmed the order dated 19.07.2023, passed by learned Judicial Magistrate First Class, Badnapur, whereby, rejected the application for seeking direction to send the complaint under Section 156 (3) to the police authority for investigation and directed the petitioner to proceed with the application as a compliant under Section 200 of the Code of Criminal Procedure (for short the '*Cr.PC.*') and kept it for verification.

3. Learned Advocate for the petitioner vehemently argued at length, but failed to point out that the impugned orders are illegal or perverse. On the contrary, on perusal of the impugned orders, it seems that the learned Magistrate has passed a detailed order, which the learned Additional Sessions Judge confirmed. *Prima facie*, I do not find substance in the contention of the learned Advocate for the petitioner in that regard.

4. Learned Advocate to substantiate his contention has relied on the judgment of the Hon'ble Apex Court in *Lalita Kumari Versus Government of Uttar Pradesh and Others, (2014) 2 SCC 1*. However, he failed to point out how the said judgment is applicable in the case in hand or helpful in support of his contention.

5. He further tried to point out the document at page nos. 28 and 29. However, I do not find substance in his contention that, based on those documents, it was incumbent upon the learned Magistrate to send the complaint under Section 156(3) to the police authorities for investigation. On the contrary, it is settled position of law that it is the discretion of the Magistrate into the matter whether complaint has to be sent for investigation to the police authority or he can take the cognizance of the said matter and in the case in hand learned Magistrate, after considering the material before him, has refused to send the matter under Section 156 (3) for investigation but proceeded with the application as a complaint under Section 200 of the Cr.P.C. and directed him to appear for verification. Moreover, after verification during the Trial, if the learned Magistrate is of the opinion that an investigation by the police is required, he may, under Section 202 of Cr.P.C., direct the police to enquire into the matter. For that purpose, it would not be incumbent on the Magistrate to send the complaint filed by the complainant under Section 156 (3) to the police authority to conduct the investigation.

6. Apart from this, *prima facie*, it appears that the complainant has not followed the mandate in Section 154 (3) of the Cr.P.C. The complainant has not sent the substance of such information in writing to

the Superintendent of Police or a higher authority, despite the learned officer-in-charge of the Police Station refusing to accept it. Still, it appears that the petitioner has filed the complaint with the police authority and sent a copy thereof to the Superintendent of Police, which is not contemplated under Section 154(3) of the Cr. P. C.

7. Having considered the above discussion and the settled position of law, in my opinion, it is the discretion of the Magistrate whether the complaint has to be referred and sent for investigation to the police authority or take cognisance of it by himself. As such, I do not find any illegality and perversity in the impugned orders to interfere in the writ jurisdiction.

8. As a result, the Criminal Writ Petition being devoid of merits, stands dismissed. The rule is discharged. No order as to costs.

(ABHAY J. MANTRI, J.)