



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

**25 CRIMINAL WRIT PETITION NO. 867 OF 2025**

Chandrabhas s/o Rangnathrao Dhumal,  
Age:-62 years, Occ. Retired/Agri.,  
R/o Rashin, Tq. Karjat,  
Dist. Ahmednagar

**... Petitioner**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32
2. The Inspector General of Police,  
Maharashtra State, Mumbai.
3. The Superintendent of Police,  
Ahmednagar.
4. The Tahsildar,  
Karjat, Tq. Karjat,  
Dist. Ahmednagar.
5. The Investigation Officer,  
Karjat Police Station,  
Tq. Karjat, Dist. Ahmednagar.

**... Respondents**

...

Mr. Kiran P. Rathod, Advocate for the Petitioner.  
Mr. S. A. Gaikwad, APP for the Respondents.

...

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

DATE : 21<sup>st</sup> July, 2025.

**Per Court:**

. Present petition has been filed seeking direction to appoint an independent officer not below the rank of Deputy Superintendent of Police to investigate C.R. No.40 of 2025, dated 25<sup>th</sup> January, 2025, registered with Karjat Police Station, District Ahilyanagar, for the offence punishable under Section 303(2) of the Bhartiya Nyaya Sanhita, 2023 (BNS). The second prayer is to take action against the investigating officer.

2 Heard the learned counsel for the petitioner and the learned APP for all the respondents, after waiving service for them.

3 The learned counsel for the petitioner vehemently submits that the petitioner is the retired Indian Navy Officer. He is having an agricultural land bearing Gat Nos.1555 and 1556, admeasuring area 1 H 35 R and 1 H 72 R, respectively, at village Rashin, Taluka Karjat, District Ahilyanagar (Ahmednagar). He had purchased the said land under a registered sale-deed and mutation in respect of his ownership and possession has been taken. He went to his agricultural land around 11:30 am on 20<sup>th</sup> January, 2024. At that time, he saw that one JCB was digging the land and one Hywa vehicle was there for transportation of *Murum*. The petitioner made enquiry with the driver

of the Hywa, who had beaten him with kicks and fist blows. But then when later on he made enquiry, he got to know that the said JCB as well as the Hywa was owned by Rajpat Infra Con Private Limited, Pune. According to the petitioner, as per the direction of the said company, one brass *Murum* was stolen from his agricultural land. The petitioner had then filed a complaint in writing to the Tahsildar, Karjat. *Panchanama* has also been drawn by the Circle Officer. However, no step was taken for lodging of the report and therefore, the petitioner had filed Criminal M.A. No.74 of 2024, before the learned Judicial Magistrate First Class, Karjat. By taking the matter on board, an application / pursis was filed at Exhibit-07 in that matter, which has stated that he does not want to proceed with the application. In fact, the complaint that was filed by him before the revenue authority, was still pending and enquiry was being made by the Circle Officer regarding the excavation. The petitioner, thereafter, filed Criminal M.A. No.81 of 2024 for sending the matter for investigation under Section 156(3) of Cr.P.C. However, the learned Magistrate by order dated 18<sup>th</sup> July, 2024, rejected that application. The FIR was got recorded by the Karjat Police Station on 25<sup>th</sup> January, 2025 i.e. vide C.R. No.40 of 2025, but it ought to have been under the provisions of the Indian Penal Code, as the incident had taken place on 20<sup>th</sup> January, 2024. Still, the concerned police station registered the offence under Section 303(2) of BNS. It was got registered against the unknown person.

Now, the authorities are not moving further and they are not recording the statements of those persons, whose statements ought to have been recorded and therefore, the petitioner is apprehending that there will not be a fair investigation at the hands of the present investigating officer. The petitioner has no alternative, but to approach under the constitutional powers of this Court.

4           The learned APP fir the respondents strongly opposes the petition. Even at this stage, as he submits that detailed instructions are yet to receive, still it can be considered that already the petitioner had approached the Magistrate by filing Criminal M.A. No.74 of 2024, but then he had withdrawn the said application by making a statement that he has no desire to proceed with the application. His another attempt was by filing Criminal M.A. No.81 of 2024 under Section 156(3) of Cr.P.C., but that application was rejected by the learned Magistrate on the ground that there is no compliance as per Section 154(3) of Cr.P.C. The FIR now lodged at the instance of the petitioner is against the unknown person. He has signed the FIR, the investigation is going on and without there being any concrete evidence of any *mala-fide*, the transfer of investigation cannot be ordered.

5           We fully agree with the submissions by the learned APP.

Here, it is important to be noted that the initial complaint / application to Tahsildar by the present petitioner was on 20<sup>th</sup> January, 2024. Now, the petitioner has not produced Exhibit-1 in Criminal M.A. No.74 of 2024, which would have given the entire history and the documents on which the petitioner was relying. Of-course, it appears that in the said MA, the petitioner had prayed for sending the matter for investigation under Section 156(3) of Cr.P.C. but, in the initial stage itself, by filing a pursis Exhibit-8 on 4<sup>th</sup> April, 2024, the petitioner has stated that he has no desire to proceed with the application. On the day of order by the learned Magistrate i.e. on 5<sup>th</sup> April, 2024, the present petitioner as well as his advocate were present. Now, the learned counsel for the petitioner submits that the petitioner was not aware as to on which document his signature was taken and he totally relied on his advocate. This cannot be the explanation when the petitioner is an educated person. He retired from Indian Navy. Though he may not be aware about the niceties of the law and the legal steps those are required in any matter, yet at least he should know on which document he is signing.

6           The second attempt by the present petitioner was by filing Criminal M.A. No.81 of 2024. Again alongwith the writ petition, the petitioner has not filed Exhibit-1 in the said matter, which could have then disclosed as to whether the petitioner had disclosed about filing of

Criminal M.A. No.74 of 2024 in Criminal M.A. No.81 of 2024 or not. The said application was rejected by the learned Magistrate as aforesaid for non-compliance of the step under Section 154(3) of Cr.P.C. It appears that in spite of this, his FIR came to be recorded by Karjat Police Station on 25<sup>th</sup> January, 2025. There appears to be typographical mistake in respect of the date of the offence. It should have been 20<sup>th</sup> January, 2024 and therefore, the offence that ought to have been attracted would have been under Section 379 of IPC. Merely because it is registered on 25<sup>th</sup> January, 2025, it cannot be under BNS. There is room to believe that now the said FIR would have been signed by the petitioner after going through the contents of the same. The FIR now appears to be against unknown person. There is absolutely no mention about the Hywa or JCB machine and there is no statement that upon his enquiry, he came to know that the said Hywa and JCB belong to Rajpat company. The FIR is totally against unknown person. There is a specific statement in the FIR “त्यानंतर मी शेतातील मुरुम चोरीला गेलेबाबत आजुबाजुस विचारपुस केली परंतु मला काहीएक माहिती मिळाली नाही तेव्हा माझी खात्री झाली की माझे शेतातील गट नं. 1555 व 1556 मधील मुरुम कोणीतरी अज्ञात चोरट्याने चोरून नेला आहे.” *(Thereafter, I made inquiry in respect of the theft of Murum from my agricultural land with the adjoining persons, but I could not receive any information. Therefore, I got it confirmed that some unknown person has committed theft of Murum from my land bearing Gat No.1555 and 1556).* Thus, it

can be seen that the petitioner himself is taking different stands. There is no such incident or material that has been shown, which would show that the present investigating officer is acting *mala-fide* and is not taking proper steps for the fair investigation. Therefore, we do not find this to be a fit case where we should exercise our constitutional powers under Article 226 of the Constitution of India. The writ petition stands dismissed at the threshold.

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**[ SANJAY A. DESHMUKH, J. ]      [ SMT. VIBHA KANKANWADI, J. ]**