



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1411 OF 2023

Mobinkhan s/o Nawabkhan Pathan
Age: 34 years, Occu.: Advocate,
R/o. Shyam Nagar, Latur.

.. Applicants

Versus

1. State of Maharashtra
Through Officer-in-charge.
2. The Sub Divisional Police Officer/
Deputy Superintendent of Police,
Sub-Division Latur City, Latur,
Taluka and District Latur.
3. Shubham s/o Govind @ Bhausahab Bansude
Age: 27 years, Occu.: Agri./Business,
4. Govind s/o Sopanrao Bansude
Age: 59 years, Occu.: Agri./Business.

Both R/o. Bansude Niwas, Saraf line,
Latur, Tq. And Dist. Latur.

.. Respondents

...
WITH

CRIMINAL APPLICATION NO.1410 OF 2023

Mobinkhan s/o Nawabkhan Pathan
Age: 34 years, Occu.: Advocate,
R/o. Shyam Nagar, Latur.

.. Applicant

Versus

1. The State of Maharashtra
Through the Officer In-charge,
Vivekanand Chowk Police Station,
Latur, Taluka and District Latur.
2. The Sub Divisional Police Officer/
Deputy Superintendent of Police,
Sub-Division Latur City, Latur,
Taluka and District Latur.

3. Shubham s/o Govind @ Bhausahab Bansude
Age: 27 years, Occu.: Agri./Business,
4. Govind s/o Sopanrao Bansude
Age: 59 years, Occu.: Agri./Business.

Both R/o. Bansude Niwas, Saraf line,
Latur, Tq. And Dist. Latur.

.. Respondents

...

WITH

CRIMINAL APPLICATION NO.1481 OF 2025
IN CRIMINAL APPLICATION NO.3065 OF 2023

1. Bapurao s/o Madhavrao Hajare
Age: 65 years, Occu.: Business,
2. Sarla w/o Bapusaheb Hajare
Age: 60 years, Occu.: Homemaker
3. Arun s/o Bapurao Hajare
Age: 40 years, Occu.: Business.
4. Raman s/o Bapurao Hajare
Age: 34 years, Occu.: Business,
5. Fulabai w/o Bhausahab Bansude
Age: 77 years, Occu.: Homemaker

Applicant Nos.1 to 5 are R/o. Bungalow
No.4, Purushottam Park, Barshi Road,
Tq. And Dist. Latur.

6. Venkat s/o Sanjivan Autade
Age: 32 years, Occu.: Private job,
R/o. Raje Shivaji Nagar, Behind Hotel
Nikki, Barshi Road, Tq. And Dist. Latur.

.. Applicants

Versus

1. The State of Maharashtra
In-charge Officer, Police Station Gandhi,
Chowk, Taluka and District Latur.
2. Shubham s/o Govind @ Bhausahab Bansude
Age: 30 years, Occu.: Agri. And Business,

3. Govind s/o Sopanrao Bansude
Age: 62 Years, Occu.: As above,

.. Respondents

...

WITH

CRIMINAL APPLICATION NO.3065 OF 2023

1. Bapurao s/o Madhavrao Hajare
Age: 63 years, Occu.: Business,
2. Sarla w/o Bapusaheb Hajare
Age: 58 years, Occu.: Homemaker
3. Arun s/o Bapurao Hajare
Age: 38 years, Occu.: Business.
4. Raman s/o Bapurao Hajare
Age: 32 years, Occu.: Business,
5. Fulabai w/o Bhausahab Bansude
Age: 75 years, Occu.: Homemaker

Applicant Nos.1 to 5 R/o. Mati Nagar,
Latur.

6. Venkat s/o Sanjivan Autade
Age: 30 years, Occu.: Job,
R/o. Raje Shivaji Nagar, Latur.

.. Applicants

Versus

1. The State of Maharashtra
In-charge Officer, Police Station Gandhi,
Chowk, Taluka and District Latur.
2. Shubham s/o Govind @ Bhausahab Bansude
Age: 30 years, Occu.: Agri. And Business,
3. Govind s/o Sopanrao Bansude
Age: 62 Years, Occu.: As above,

.. Respondents

...

WITH

CRIMINAL APPLICATION NO.3066 OF 2023

1. Bapurao s/o Madhavrao Hajare
Age: 63 years, Occu.: Business,

2. Sarla w/o Bapusaheb Hajare
Age: 58 years, Occu.: Homemaker
3. Arun s/o Bapurao Hajare
Age: 38 years, Occu.: Business.
4. Raman s/o Bapurao Hajare
Age: 32 years, Occu.: Business,
5. Fulabai w/o Bhausahab Bansude
Age: 75 years, Occu.: Homemaker

Applicant Nos.1 to 5 R/o. Mati Nagar,
Latur.

6. Venkat s/o Sanjivan Autade
Age: 30 years, Occu.: Job,
R/o. Raje Shivaji Nagar, Latur.

.. Applicants

Versus

1. The State of Maharashtra
Through the Officer In-charge,
Vivekanand Chowk Police Station,
Latur, Taluka and District Latur.
2. Shubham s/o Govind @ Bhausahab Bansude
Age: 30 years, Occu.: Agri. And Business,
R/o. Bansude Niwas, Sarafa Laine,
Latur, Tq. And Dist. Latur.
3. Govind s/o Sopanrao Bansude
Age: 62 Years, Occu.: As above.

.. Respondents

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Ms. Anjali Dube (Bajpai), Advocate for applicants in Criminal Application Nos.1411 of 2023 and 1410 of 2023.

Mr. R. S. Deshmukh, Senior Counsel i/b Mr. Vishal A. Chavan, Advocate for the applicants in Criminal Application Nos.3065 of 2023, 3066 of 2023 and 1481 of 2025.

Mr. A. R. Kale, Addl. PP for respondent/State in all the matters.

Mr. Deepak Bansude, Advocate a/w Mr. C. P. Patil, Advocate for respondent Nos.2 and 3 in Criminal Application Nos.3065 of 2023 and 3066 of 2023 and for respondent Nos.3 and 4 in Criminal Application No.1411 of 2023.

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

**RESERVED ON : 23 JUNE 2025
PRONOUNCED ON : 04 SEPTEMBER 2025**

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. All these matters are taken up together for discussion to avoid repetition, as it contains some common facts.

2. Criminal Application Nos.1411 of 2023 and 3065 of 2023 have been filed for quashment of the FIR vide Crime No.28 of 2023 registered with Gandhi Chowk Police Station, District Latur on 18.01.2023. It came to be registered on the basis of the order passed by learned Judicial Magistrate First Class, Latur on 21.12.2022 in Criminal Miscellaneous Application No.1044 of 2022. Criminal Application Nos.1410 of 2023 and 3066 of 2023 have been filed for quashment of the FIR vide Crime No.89 of 2023 registered with Vivekanand Chowk Police Station, District Latur. Both the FIRs i.e. Crime No.28 of 2023 and Crime No.89 of 2023 were registered for the offences punishable under Sections 403, 406, 417, 420, 465, 467, 468, 470, 471 read with Section 34 of Indian Penal Code. Criminal Application No.1481 of 2025 has been filed in Criminal Application No.3065 of 2023 for initiating proceedings for perjury against non applicant Nos.2 and 3 for filing forged and fabricated documents and for directions to register the appropriate proceedings.

3. Heard learned Advocate Ms. Anjali Dube (Bajpai) for the applicants in Criminal Application Nos.1411 of 2023 and 1410 of 2023, learned Senior Counsel Mr. R. S. Deshmukh instructed by learned Advocate Mr. V. A. Chavan for the applicants in Criminal Application Nos.3065 of 2023, 3066 of 2023 and 1481 of 2025, learned Additional Public Prosecutor Mr. A. R. Kale for respondent/State in all the matters and learned Advocate Mr. Deepak Bansude along with learned Advocate Mr. C. P. Patil for respondent Nos.2 and 3 in Criminal Application No.3065 of 2023 and 3066 of 2023 and for respondent Nos.3 and 4 in Criminal Application No.1411 of 2023.

4. It has been vehemently submitted by learned Senior Counsel Mr. R. S. Deshmukh instructed by learned Advocate Mr. V. A. Chavan for the applicants in Criminal Application Nos.3065 of 2023, 3066 of 2023 and 1481 of 2025 that Criminal Miscellaneous Application No.1044 of 2022 was filed by the respondent/informant under Section 156(3) of the Code of Criminal Procedure, which came to be allowed on 21.12.2022 and if we peruse the original application, then it can be seen that after giving the story, it has been stated that the original plaintiff i.e. the complainant had filed Regular Civil Suit No.328 of 2015 against accused No.5 seeking perpetual and mandatory injunction, declaration etc. and it is pending before the learned 3rd Joint Civil Judge Senior Division, Latur. The concerned Civil Court passed an order at Exhibit-17 on 03.07.2015

and directed accused No.5 to maintain status quo in respect of entire suit property described in plaint paragraph No.2A to 2F. The said entire order continued on the fixed dates until the decision on Exhibit-05 on 07.09.2015. It is alleged in the complaint that in spite of the status quo order, which is in existence and unchallenged, the accused persons have raised loan by mortgaging the suit property to the financial institutions and also got the names mutated to the revenue record. It is alleged that though one Bhausaheb Bansude had expired in Ruby Hospital, Pune on 13.05.2015, bogus death certificate was obtained from Latur Mahanagarpalika saying that Bhausaheb had expired at Motinagar Bansude Niwas at Latur. Several other documents were got fabricated and on the basis of those fabricated documents, there is cheating as well as misappropriation. Even there is allegations about bogus gift deed getting executed, however, all these are the subject matter of the civil suit. Further, there was another Criminal Miscellaneous Application filed by one Shubham Bansude and Govind Bansude i.e. the respondents for taking action under Section 156(3) of the Code of Criminal Procedure. Criminal Miscellaneous Application No.1044 of 2022 came to be filed on 02.11.2022, whereas Criminal Miscellaneous Application No.1046 of 2022 came to be filed on 03.11.2022. The contents in both the matters are same. There is reference of the status quo order in Regular Civil Suit No.328 of 2015, however, there is no explanation or in other words,

there is total suppression of the fact that already Criminal Miscellaneous Application No.1044 of 2022 has been filed. Criminal Miscellaneous Application No.1046 of 2022 came to be rejected by the learned Judicial Magistrate First Class on 04.02.2023. Though it was so rejected, yet the FIR was filed on 06.02.2023 with Vivekanand Chowk Police Station. The FIR in both the matters is nothing but an abuse of process of law when the Civil Court has seized with the matter. In fact, there is total suppression of fact. In fact, the applicant Mobinkhan Nawabkhan Pathan is an Advocate, who was working in the office of Senior Advocate Ashish Bajpai and was practicing in Latur. In the said suit, applicant Mobinkhan came to be unnecessarily added as defendant No.2. Descendants of Sopanrao filed 5-6 Civil Suits against Fulabai and her brothers and Advocate Ashish Bajpai was representing Fulabai Bansude. Even 10-15 private complaints in the Courts of different Judicial Magistrate First Class, Latur came to be filed against police officers, friends of late Bhausahab Bansude, who supported Bhausahab's widow Fulabai and it was also against 12 lawyers, who had represented Fulabai. The Advocate representing respondent Nos.3 to 4 is their family member. In fact, Criminal Miscellaneous Application No.1043 of 2022 was filed with learned 3rd Judicial Magistrate First Class, Latur, Criminal Miscellaneous Application No.1044 of 2022 was filed with 4th Judicial Magistrate First Class, Latur and Criminal Miscellaneous Application

No.1046 of 2022 was filed with learned Joint Judicial Magistrate First Class, Latur. They were containing almost the same allegations and that is why they were arising out of single complaint that was allegedly made before the Superintendent of Latur on 22.09.2022. In verbatim, they are same except the name of bank and the amount of loan that was taken by Fulabai and her brother for mortgaging the respective properties. Now, the position is that Criminal Miscellaneous Application No.1046 of 2022 has been rejected by the concerned Court on 04.02.2023, yet the FIR came to be lodged. There is also suppression of fact as to what happened in the civil suit. Now, during the pendency of these applications, charge-sheet has been filed. The allegations against applicant Mobinkhan are vague. There is absolutely no averment and the material to show that he has with criminal intention prepared any forged document. Further, even if a document is alleged to be forged, yet even in the order passed below Exhibit-05 in the said civil suit dated 11.11.2022, there are no observations that any record has been forged that too with the help of legal expert/lawyer. All these things have been then observed by the concerned Judicial Magistrate First Class while passing the order dated 04.02.2023 in Criminal Miscellaneous Application No.1046 of 2022.

5. Learned Senior Counsel further states that after the charge-sheet has been filed by Gandhi Chowk Police Station and perusal of the

documents therein, certain facts have been noted. In fact, this Court had substantially heard the matter on 05.02.2025 and in pursuance to the additional documents filed by respondent Nos.2 and 3 before this Court on 10.02.2025, the applicants have given additional affidavit on 17.02.2025. It can be seen that those additional documents which were produced by the informants on 10.02.2025 are forged and fabricated in order to obtain favourable orders. When the matter was heard at length, this Court had directed the informants to produce on record the complaint filed before the Police Inspector, Gandhi Chowk Police Station in compliance of Section 151 of the Code of Criminal Procedure. Accordingly, those documents came to be produced at page Nos.1 to 54 through e-filing and thereafter on 10.02.2025, hard copies were submitted. Copy of the same was also supplied to the applicants on the same day. In this connection, the applicants want to say that in Criminal Miscellaneous Application No.1044 of 2022 before the learned Judicial Magistrate First Class, it was stated that there was compliance under Section 154(3) of the Code of Criminal Procedure by complaint dated 22.09.2022, which was submitted to the Superintendent of Police, Latur. The document at Serial No.12 in the list of documents Exhibit-05 in the said Miscellaneous Application is not similar. It is bogus and forged document as the complaint under Section 154(1) of the Code of Criminal Procedure appears to be presented on the same date i.e. 22.09.2022.

Prima facie the complaint under Section 154(1) of the Code of Criminal Procedure allegedly on 22.09.2022 of page No.6 bears the reference of the order passed by learned Joint Civil Judge Senior Division below Exhibit-05 on 11.11.2022 and therefore, that document is forged and appears to have been prepared. Learned Senior Counsel also tried to demonstrate as to how there is overwriting in the serial numbers of the list of documents and submits that since it can be seen that there was absolutely no compliance of the directions in ***Priyanka Srivastava and another vs. State of Uttar Pradesh and others, (2015) 6 SCC 287, Vikram Johar Vs. The State of Uttar Pradesh and others., [AIR 2019 SC 2109]*** and ***Babu Venkatesh and others vs. State of Karnataka and another, [Criminal Appeal No. 252 of 2022 (Arising Out Of SLP (Crl.) No. 2183 Of 2021)] decided by the Hon'ble Supreme Court on 18.02.2022.*** There was no mandatory compliance, yet with the help of forged documents, now the informants want to project that there was a compliance before the order was passed by the learned Judicial Magistrate First Class under Section 156(3) in Criminal Miscellaneous Application No.1044 of 2022 on 21.12.2022 and, therefore, there is a perjury committed by the informants and, therefore, action needs to be taken against them.

6. Learned Senior Counsel submits that the applicants in Criminal Application No.3066 of 2023 are the other accused persons and it can

be seen that Crime No.89 of 2023 came to be registered against them on the basis of order passed in Criminal Miscellaneous Application No.1043 of 2022 by learned Judicial Magistrate First Class, Court No.3, Latur on 03.02.2023. The impugned order does not show that there was compliance of the guidelines in **Priyanka Srivastava (Supra)**. It ought to have been pointed out by the informants that the substantial question or substantial facts were already pleaded in Criminal Miscellaneous Application No.1044 of 2022 and the other matters ought to have been then brought under one roof. Therefore, when there is no compliance or proper compliance of the guidelines in **Priyanka Srivastava (Supra)**, the registration of the FIR itself is illegal and the applicants then need not be asked to face the trial.

7. Learned APP as well as learned Advocate for respondent Nos.3 and 4, who had mostly appeared through Video Conferencing, strongly opposed the applications and submitted that though the basic source regarding the status quo order is same, yet the cause of action arose within the jurisdiction of different Magistrates. In defiance to the order of status quo, the property has been mortgaged, huge amount of loan has been taken, even the mutation has been got effected after the said order. The falsity or fabrication of documents was even prior to the civil suit. Learned Advocate for the informants has pleaded the same facts which are pleaded in Criminal Miscellaneous Application Nos.1044 of 2022,

1043 of 2022 and 1046 of 2022, which are in respect of the joint family property and then the claim of the accused persons as widow of Bhausahab. In fact, Bhausahab had legally adopted informant No.1/Shubham. Bhausahab was *Karta* and manager of the joint family. When accused No.5 Fulabai claimed herself to be the widow, then she was in collusion with other accused and with an intention to grab the huge property, fabricated and forged the documents. The status quo order came to be passed in Regular Civil Suit No.328 of 2015 on 07.09.2015 and it continued till the order below Exhibit-05 for temporary injunction was passed on 07.09.2015. Now, in breach of the said status quo order, when several transactions have been made at different places, each place and each act has given cause of action for lodging the report. Death certificate of Bhausahab has been falsely prepared. Even from the locker of the bank, gold ornaments have been taken without the consent of the informant. Under such circumstance, there is no illegality committed in filing different criminal applications. All the guidelines in ***Priyanka Srivastava (Supra)*** have been fulfilled. The contents in Criminal Miscellaneous Applications would show that there are averments that when the informants/applicants therein had gone to lodge the FIR, the Police Station had not accepted the same and, therefore, the written complaint was filed to Superintendent of Police, Latur on 22.09.2022. There is no forgery or perjury committed by the

informants. Learned Advocate for respondent Nos.2 and 3/informants has also made certain submissions, which cannot be considered as part of the present matters, because for the other alleged acts, the action appears to have already been taken. It was personal in nature for the Advocate and when he is arguing in the capacity as Advocate, that cannot be considered.

8. Thus, taking note of all these cases in the nutshell, it can be said that the main argument on behalf of the applicants arrayed as accused is that there was no compliance of Section 154(3) of the Code of Criminal Procedure and in absence of such compliance, if the order is passed under Section 156(3) of the Code of Criminal Procedure, then according to them it is illegal and the FIRs cannot be allowed to sustain. The second limb they want to challenge is that when the informants intended to say that the basis is same or major acts are same, then multiple FIRs or the second FIR is not maintainable.

9. Before turning to the scrutiny of facts, we would like to consider the legal position. Certainly, we are guided by the decision in **Priyanka Srivastava (Supra)**, when it comes to passing an order under Section 156(3) of the Code of Criminal Procedure, wherein it has been observed that :-

“27. In our considered opinion, a stage has come in this country where Section 156(3) Code of Criminal Procedure

applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons.

That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or Under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

We have already indicated that there has to be prior applications Under Section 154(1) and 154(3) while filing a petition Under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application Under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate Under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the

nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.”

10. Therefore, we would certainly say that in order to see as to whether there was compliance of the guidelines in ***Priyanka Srivastava (Supra)***, when we had heard the matter substantially on 05.02.2025, we had adjourned the matter for production of documents by respondent Nos.3 and 4. Those documents came to be produced on 10.02.2025 and then the matter was adjourned for the study of those documents by the other side. Now, before turning to those documents, we would like to consider the pleadings in Criminal Miscellaneous Applications. Except the certain amount of change in the property, rest all the contentions are same, rather copy paste. It appears that there was only one written complaint that was made to Superintendent of Police, Latur on 22.09.2022. The pleading in clear terms does not specify that a written complaint was submitted to the concerned Police Stations. At the cost of repetition, we would like to say that the offence under Criminal Miscellaneous Application No.1044 of 2022 was to be registered with Gandhi Chowk Police Station, the offence under Criminal Miscellaneous

Application No.1043 of 2022 was to be registered with Vivekanand Chowk Police Station and the offence under Criminal Miscellaneous Application No.1046 of 2022 was to be registered with Shivaji Nagar Police Station, Latur. Under such circumstance, there ought to have been then three different written complaints to the different police stations (may be or may not be of the same date). Now, along with the charge-sheet No.60 of 2024 in respect of Crime No.28 of 2023, there is no such document dated 22.09.2022 to Gandhi Chowk Police Station. There is of course the written complaint to Superintendent of Police, Latur dated 22.09.2022. Even in that complaint, there is no recital that the informants had approached the concerned Police Station and the Police Station has refused to register the FIR. A complaint allegedly be given in writing by informant Shubham dated 19.01.2023 has been annexed to the charge-sheet to which we are not concerned. Now, recently, in ***S. N. Vijayalakshmi & Ors. vs. State of Karnataka & Anr., [Criminal Appeal No.____ of 2025 (@Special Leave Petition (Criminal) No.8626 of 2024)]***, after taking note of the decisions including ***Priyanka Srivastava (Supra)*** it has been observed thus :-

“We sum up our conclusions on this score as follows : (i) Directions issued in ***Priyanka Srivastava (Supra)*** are mandatory; (ii) Guidelines laid down in ***Priyanka Srivastava (Supra)*** operate prospectively; (iii) Non-filing of the supporting affidavit is a curable defect, but must be cured before the Magistrate passes any substantive

order on the complaint/application, and; (iv) if the Magistrate proceeds without the requisite affidavit, such order/any consequential orders/proceedings can be quashed on the sole ground of non-compliance with ***Priyanka Srivastava (Supra)***.”

Though this case was mainly in respect of non filing of FIR, yet the last is relevant for us in ***Priyanka Srivastava (Supra)***, wherein it has been observed thus :-

“26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

11. The stages then will have to be followed by the complainant or applicant. He should approach the police station first under Section 154(1) of the Code of Criminal Procedure, if there is refusal to take his oral information, then there should be attempt to register the FIR by giving a written complaint to the police station and then the question of stage under Section 154(3) of the Code of Criminal Procedure would arise, because Section 154(3) of the Code of Criminal Procedure uses

the words “any person aggrieved by a refusal on the part of an officer in charge of the police station to record the information referred to in sub section (1) may send the substance in writing by the post to the Superintendent of Police concerned” Therefore, before taking recourse under Section 154(3) there has to be compliance under Section 154(1) of the Code of Criminal Procedure. Here, in this case, it appears that the informant has directly given a written complaint to the Superintendent of Police. Now, interestingly in Criminal Revision Application No.04 of 2022 it appears that a pursis came to be filed on behalf of the informant/respondent therein thereby filing the photocopy of the complaint given by them at Gandhi Chowk Police Station, Latur and along with it, the said written complaint dated 22.09.2022 was produced. That means, this document has been filed before the Revisional Court and not before the trial Court/learned Judicial Magistrate First Class and on page No.6, there is a reference of order dated 11.11.2022 passed in the civil suit and, therefore, now, the learned Senior Counsel appearing for the applicants submit that this is a forged document. Certainly, we are taking note of the fact that in complaint application filed before the Police Station on 22.09.2022, there could not have been a reference of order dated 11.11.2022 i.e. the order that came to be passed in future. Now, as regards action of perjury is concerned, the said point was available for the applicants to be agitated before the Revisional Court,

but it appears that it has not been agitated and the delay has not been explained and, therefore, we will not exercise our powers in Criminal Application No.1481 of 2025 filed in Criminal Application No.3065 of 2023 for directions to take action for perjury. The applicant concerned or aggrieved party is at liberty to take that action.

12. The fact, however, remains is that there was no compliance of Section 154(1) of the Code of Criminal Procedure and, therefore, the Courts, who passed the order in Criminal Miscellaneous Application Nos.1043 of 2022 and 1044 of 2022, have committed gross error and illegality. Further, as regards Criminal Miscellaneous Application No.1046 of 2022, it is to be noted that the said application came to be rejected on 04.02.2023. Then the question arises as to how Crime No.89 of 2023 came to be registered on 06.02.2023 is a question and, therefore, that FIR is also required to be quashed and set aside. The charge-sheet appears to be filed only in respect of Crime No.28 of 2023.

13. One more aspect that is required to be noted is that the photocopies of the Civil Suit has been produced, which show that the suit came to be filed on 29.06.2015. Thereafter, notices were issued. No *ex parte* injunction was granted. The defendant Nos.1 and 2 appears to have been appeared on 03.07.2015 and on that day, there was an application on behalf of the plaintiffs praying for maintenance of status

quo. That application was not signed by any of the plaintiffs, but it appears that it was only signed by the Advocate. It was not even supported by separate affidavit though the application Exhibit-05 was pending. Say on behalf of defendants who appeared was taken and an order was passed giving reasons directing the plaintiffs as well as both the defendants to maintain status quo concerning the suit properties. Now, in that order, the status of the properties for maintaining status quo was not stated. Though that status was continued till 11.11.2022, it can be seen from the order below Exhibit-05 that though there was submissions regarding breach of status quo, neither there was an application for *status quo ante*, nor there is observation by the concerned Civil Court that there was a breach of order of *status quo*. It appears that the plaintiffs had not even taken any separate action under Order 39 Rule 2A of the Civil Procedure Code. Exhibit-05 was then partly allowed and defendant No.1 or anybody on her behalf were temporarily restrained from alienating the suit property 1-A, 1-C to 1-G by any mode or to any third person till the decision of the suit and further directions have also been given. This is what has been observed by learned Joint Judicial Magistrate First Class, Latur while rejecting Criminal Miscellaneous Application No.1046 of 2022. Further as observed in ***Priyanka Srivastava (Supra)*** in respect of abnormal delay/laches in initiating criminal prosecution, a caution was given to the Magistrate for

passing such order and, therefore, the learned Magistrate while rejecting Criminal Miscellaneous Application No.1046 of 2022 has stated that the complaint under Section 156(3) of the Code of Criminal Procedure has been filed after a period of seven years from the date of filing of that suit with an ulterior motive. At the cost of repetition, we would say that when the applications were mainly copy paste and then preferred before three different Courts and then one Court come to the conclusion that there is no observance of **Priyanka Srivastava (Supra)** or based upon **Priyanka Srivastava (Supra)**, some observations have been made, then under such circumstance, the result ought to have been same. There was no compliance of the three matters in respect of written complaint under Section 154(1) of the Code of Criminal Procedure. There cannot be stage of directly approaching the superior i.e. Superintendent of Police under Section 154(3) of the Code of Criminal Procedure. We may also observe that there has to be some gap between the stage under Section 154(1) and Section 154 (3) of the Code of Criminal Procedure, because the word used is “aggrieved”. The complainant/informant should wait for a reasonable period and to see whether there would be action taken upon his written complaint by the Police Station under Section 154(1) of the Code of Criminal Procedure or not. There cannot be a simultaneous complaint applications on the same day to the Police Station as well as to the District Superintendent

of Police. Therefore, when the guidelines of **Priyanka Srivastava (Supra)** have not been adhered to, the orders passed under Section 156(3) of the Code of Criminal Procedure are illegal and, therefore, the FIR lodged on their basis are also illegal and therefore, the consequent proceedings also. After the rejection of the application under Section 156(3) of the Code of Criminal Procedure, there ought not to have been the FIR registered and, therefore, those proceedings should also result in favour of the applicants. Hence, the following order :-

ORDER

I) Criminal Application Nos.1411 of 2023, Criminal Application No.1410 of 2023, Criminal Application No.3065 of 2023 and Criminal Application No. 3066 of 2023 stand allowed.

II) The FIR vide Crime No.28 of 2023 dated 18.01.2023 registered with Gandhi Chowk Police Station, District Latur as well as the proceedings in Regular Criminal Case No.441 of 2024 pending before the learned Chief Judicial Magistrate, Latur for the offences punishable under Sections 403, 406, 417, 420, 465, 467, 468, 470, 471 read with Section 34 of Indian Penal Code stand quashed and set aside as against the applicants in Criminal Application No.1411 of 2023 as well as the applicants in Criminal Application No.3065 of 2023.

III) The FIR vide Crime No.89 of 2023 dated 06.02.2023 registered with Vivekanand Chowk Police Station, District Latur for the offences punishable under Sections 403, 406, 417, 420, 465, 467, 468, 470, 471 read with Section 34 of Indian Penal Code stands quashed and set aside as against the applicants in Criminal Application No.1410 of 2023 as well as the applicants in Criminal Application No.3066 of 2023.

IV) Criminal Application No.1481 of 2025 stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm