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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL APPEAL NO. 192 OF 2025

LAXMINARAYAN CHOTELAL RATHOD

VERSUS

THE STATE OF MAHARASHTRA

Mr.M.M.Parghane, Advocate for the appellant.

Mr.C.V.Bhadane, APP for the respondent/State.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 11 DECEMBER, 2025

PER COURT :

1. The instant appeal is preferred praying for setting aside the order passed in Cri.M.A.No.44/2024, below Exh.1 dated 25.09.2024, by the learned Additional Sessions Judge, Vaijapur, Dist. Chh.Sambhajnagar and further praying for directions to the Police Authority to take cognizance of the complaint filed by the appellant and investigate it.

2. The learned Advocate for the appellant states that initially the appellant has approached to the Police Authority for registering the FIR under the provisions of Section 3(1)(f) and 3 (1)(g) of the

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, the Police had not taken prompt action, therefore he has approached the learned Sessions Court for directions to the Investigating Authority to investigate the complaint against the persons involved, as per Section 156(3) of the Cr.P.C.

3. The learned Additional Sessions Judge, Vaijapur, vide order dated 25.09.2024 passed in Cri.M.A.No.44/2024 below Exh.1, rejected the application and therefore he has approached this Court. According to him, the order passed by the learned Sessions Judge is patently illegal. His complaint dated 12.08.2024 to the Police discloses *prima facie* commission of offence against accused persons and therefore the Police were required to register the crime. However, since the Police failed to perform their duty as laid down in Law, he has to approach the learned Sessions Court by filing private complaint. The learned Advocate for the appellant further submits that the learned Sessions Court also committed mistake in stating that the appellant was required to approach to the Higher Authorities first. He submits that the appellant is r/o urban area and therefore the Higher Authorities in respect of his area would be the Commissioner of Police and not the

Superintendent of Police. The appellant has accordingly approached the Commissioner of Police, who has also failed to take cognizance of his complaint. Therefore, he submits that the impugned order passed by the learned Sessions Court needs to be quashed and set aside.

4. The learned APP has supported the impugned order and vehemently submits that the learned Sessions Court has rightly observed that the Police Authority was directed to carry out the enquiry u/s 175(3) of the B.N.S.S. within a period of 14 days, but the appellant has approached the learned Sessions Court within a period of only 5 days. Since the matter is pending before the learned Sessions Court, the Police Officer did not make further enquiry in the matter. He, therefore, submits that the order passed by the learned Sessions Court is correct and requires no interference.

5. Admittedly, the appellant has approached the learned Sessions Court by filing private complaint on 17.08.2024 immediately after the period of 5 days of filing the police complaint. As per sub section 3 of Section 175, the Police Officer, after the receipt of such complaint, is required to conduct the enquiry and submit a report of

such enquiry, within a period of 14 days. The appellant, without waiting for result of the said enquiry, directly approached the learned Sessions Court. Therefore, it would be appropriate to remand the matter to the Police Authority for conducting such enquiry as per the complaint preferred by the appellant on 12.08.2024.

6. In that view of the matter, the order dated 25.09.2024 passed by the learned Sessions Judge is hereby quashed and set aside and the Police Authority, before whom initially the complaint dated 12.08.2024 was submitted, is hereby directed to conduct an enquiry as regards whether there are cognizable offences as required under the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, involved in the said crime or not, .

7. With the above directions, this appeal stands disposed of.

(SUSHIL M. GHODESWAR, J.)