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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.129 OF 2024

Govind s/o Badrinarayan Khandelwal,
Age-62 years, Occu-Agriculturist and
Business,
R/o. Latur-Barshi Road,
Above Bank of Maharashtra, Murud,
Tq. and Dist.Latur

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
MIDC Police Station, Latur,
Tq. and Dist.Latur,

2. Chandrakant Prabhuappa Barmaje
and Antule,
Age-70 years, Occu-Broker (Agent),
R/o Moti Nagar, Near Market Yard, Latur
Tq. and Dist.Latur

3. Kisan Mitra Ware House Pvt.Ltd.,
Through its Directors

A. Hemant Jayant Vaidya,
Age-Major, Occu-Business,

B. Jatin Hemant Vaidya,
Age-Major, Occu-Business,

C. Rajwardhan Satish Deshmukh,
Age-Major, Occu-Business,

(All R/o B-113, 114, 115, 117, Additional

MIDC, Latur and R/o Harangul (Bk.), Kallamb
Road, Latur, Tq. And Dist.Latur)

-- RESPONDENTS

Mr.V.D.Godbharle, Advocate for the petitioner.

Mr.D.B.Bhange, APP for the respondent/State.

Mr.D.S.Bansude (Through V.C.) and Mr.C.PPatil, Advocate for
respondent No.2.

Mr.R.F.Totala a/w Mr.Swapnil V.Lohiya h/f Mr.V.S.Kabra, Advocate for
respondent No.3.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 3 OCTOBER, 2025

PER COURT :

1. The petitioner is praying for quashing and setting aside the
impugned order dated 25.09.2023, passed by the learned Sessions
Judge, Latur in Cri.Revision Application No.22/2022 and the order
dated 16.03.2022 passed by the J.M.F.C.Latur in Cri.Misc.Application
No.136/2022.

2. According to the petitioner, he had filed Cri.Misc.
Application No.136/2022 before the learned J.M.F.C. praying for
issuance of directions u/s 156(3) of the Cr.PC. to respondent No.1 to
register the complaint under for the offence punishable under sections
406, 409, 420, 465, 467, 468, 471 r/w 34 of the IPC. The learned

J.M.F.C., accordingly has passed an order on 16.03.2022 of verification of the complainant instead of passing order u/s 156(3) of the Cr.PC. Therefore, the petitioner has challenged the said order before the learned Sessions Court, Latur in Revision Application No.22/2022. However, the learned Sessions Judge, Latur has dismissed the revision application on 25.09.2023. Therefore, the petitioner has approached this Court, thereby challenging the said orders.

3. According to the petitioner, on 07.11.2015, he had purchased 164 bags of soyabean through respondent No.2 and had stored it with respondent No.3 / warehouse for the purpose of selling it in future in order to earn more profit. At that time, the original receipt was retained by respondent No.2. Though he was instructing respondent No.2. to sell the soyabean, but he used to inform the petitioner that since there is no increase in price, they would sell the same in next year. Thus, some years passed, neither respondent No.2 sold the soyabean nor allowed the petitioner to sell the goods and therefore he got suspicion about the conduct of respondent No.2. Accordingly, he approached the Police Station, Latur MIDC by filing complaint. However, same was not accepted, therefore, he approached

the Superintendent of Police. Thereafter the Police closed the complaint of the petitioner and therefore he approached the learned J.M.F.C. Latur for issuance of directions u/s 156(3) of the Cr.P.C. The said complaint came to be registered as Cri.Misc.Application No.136/2022. On 16.03.2022, the learned J.M.F.C. passed the order to put up the complaint for verification instead of issuing directions u/s 156(3) of the Cr.P.C. The learned J.M.F.C. was pleased to observe that since no exceptional case is made out to order investigation u/s 156(3) of the Cr.P.C., therefore the complainant has been put up for verification.

4. Being aggrieved by the said order dated 16.03.2022, passed by the learned J.M.F.C. the petitioner filed revision application No.22/2022 before the learned Sessions Court, Latur, which came to be registered as Cri.Revision Application No.22/2022. The learned Sessions Court dismissed his revision application, therefore he has approached this Court.

5. According to the learned Advocate for the petitioner, both the Courts below failed to appreciate the fact that the complaint

preferred by him points out the cognizable case. According to him, no proper reasoning is assigned by the Courts below while passing the impugned order, rejecting an order u/s 156(3) of the Cr.P.C. As such, the said orders are required to be quashed and set aside and order u/s 156(3) of the Cr.P.C. needs to be issued.

6. I also heard the learned Advocate for respondent Nos. 2 and 3 and the learned APP for the respondent/State. They have supported the impugned orders and submits that no case for interference is made out and therefore the instant writ petition be dismissed.

7. It is very crystal clear that the alleged transaction between the parties have taken place in the year 2015. The petitioner filed complaint on 03.02.2022. According to the accused persons, since the petitioner himself had not taken away goods despite sufficient requests, it got deteriorated. Therefore, as nobody claimed the goods, it was disposed of by following the due provisions of Law. Admittedly, the complainant had made complaint to the Police Station and therefore the Police had issued notice on 08.09.2021 to accused No.2. Since the

matter between the parties appear to be purely of civil nature, therefore, the complaint preferred by the petitioner came to be disposed of by the Police, by recording the statement of accused No.1 on 02.12.2021. The police report dated 04.11.2021 does not reveal that any case is made out for police investigation. As the police, after carrying out detailed investigation have arrived at a conclusion that civil dispute arises between the parties, therefore, no case is made out for grant of relief u/s 156(3) of the Cr.P.C. thereby directing the police for investigation of the alleged crime, which had taken place in the year 2015. The learned J.M.F.C., while passing the impugned order, had decided to proceed with the complaint by putting the complainant for verification. Hence, no case is made out for interference in the impugned order.

8. The Hon'ble Full Bench of this Court in **Mr. Panchabhai Popotbhai Butani & Ors.Vs.State Of Maharashtra & Ors. [2010 ALL MR (Cri.) 244]** held that averment of facts should disclose the commission of cognizable offence for issuing order u/s 156(3) of the Cr.P.C.

9. The Hon'ble Apex Court in **Kailash Vijayvargiya**

Vs.Rajlakshmi Chaudhuri and others [(2023) 6 S.C.R. 135], has held that the Magistrate under section 156(3) of the Code, should not issue directions to register FIR in routine manner. In the case before me the orders passed by the learned Courts below does not suffer from any incorrectness or illegality.

10. Therefore, the instant petition is rejected.

(SUSHIL M. GHODESWAR, J.)