

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 877 OF 2019**

Jagonda Kalgonda Patil And Ors. ...Appellants
Versus
Tarabai Tukaram Kamble And Anr. ...Respondents

**WITH
CRIMINAL APPEAL NO. 878 OF 2019**

Sudhakar Dhanpal Zole And Anr. ...Appellants
Versus
Tarabai Tukaram Kamble And Anr. ...Respondents
Kedar Jaysing Patil

Mr. Kedar J. Patil a/w Adv. Pratik G. Tare and Adv. Vaishnavi S. Swami, Advocate for the Appellants.
Adv. Tejas Hilage, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th DECEMBER, 2025.

P.C. :

1. The challenge in this appeal is to the orders passed by the Special and Sessions Court, Ichalkaranji, in Criminal Case No.35 of 2016 dated 2nd May 2019.
2. It is the contention of learned counsel for the appellants that the respondent No.1 had filed private complaint against the appellants

before the learned Special Judge. The learned Special Judge had called the report under Section 202 of Criminal Procedure Code (for short 'CrPC'). In the said report, it is mentioned that no case is made out against the appellants. Thereafter, the respondent No.1 filed protest petition against the said report. After perusing the said report, the learned Special court has passed order under Section 156(3) of CrPC, which is erroneous. Hence, requested to allow the appeals.

3. It is the contention of learned counsel for the respondent No.1 that the learned Sessions Judge has passed well reasoned order. No interference is required in it. If this Court is inclined to set aside the order passed under Section 156(3) of CrPC, the respondent No.1 be permitted to argue on the report submitted by the Investigating Officer before the Special Court under Section 202 of CrPC.

4. I have heard both the counsel, perused the impugned order. Admittedly, the report under Section 202 of CrPC was produced before the Special Court by Police Officer. After submitting that report, the respondent No.1 herein/original complainant filed protest petition, on the said protest petition, the learned Special Court has passed order to initiate inquiry under Section 156(3) of CrPC. It is perverse. When report was called under Section 202 of CrPC, the

learned Trial Court should not have passed the order under Section 156(3) of CrPC.

5. In view of above, I pass the following order:

ORDER

- (a) Both Criminal appeals are partly allowed;
- (b) The impugned order dated 2nd May 2019, passed below Exhibit- 1 directing to initiate action under Section 156(3) of CrPC in Criminal Case No.35 of 2016 are quashed and set aside.
- (c) The respondent No.1 can contest the report filed under Section 202 of CrPC by the Police Officer.
- (d) The learned Special Court shall decide the matter on its own merit.

6. Both appeals are disposed off.

7. In view of disposal of appeals, all pending applications are also disposed off.

(SHIVKUMAR DIGE, J.)