

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No.3663 of 2010

Kumar Jaywant Londhe,
Age 56 years, Occ: Service,
Residing at Digras, Taluka Miraj,
District Sangli

... Petitioner

Versus

1 Amol Suresh Patil
Age 30 years, Occ: Service,
Residing at Wakharbhag,
District Sangli.

2. The State of Maharashtra

... Respondents

Mr Ajay Raje Nimbalkar, i/b. SS Patwardhan, for the petitioner.
Mr Kuldeep Patil, for respondent No.1.
Mr Arfan Sait, APP, for respondent No.2/State.

**Coram: R.N. Laddha, J.
Date: 28 April 2025.**

P.C.:

Heard the learned Counsel appearing for the petitioner;
the learned Counsel appearing for respondent No.1, and the
Additional Public Prosecutor representing the respondent/State.

2. The petitioner, who is the original accused No.7, has filed
the present petition challenging the order dated 28 October

2010, passed by the learned Judicial Magistrate, First Class, Miraj. By the said order, the learned Magistrate directed the concerned police station to conduct an investigation and to register a First Information Report ('FIR'). The petitioner has also impugned the subsequent order passed by the learned Additional Sessions Judge, Sangli, in Criminal Revision Application No.244 of 2010, whereby the revision application filed by the petitioner was dismissed and the order of learned Magistrate was affirmed.

3. It appears from the record that respondent No.1, who is the original complainant, had filed a private complaint against the petitioner and others, alleging commission of offences punishable under Sections 403, 409 read with 34 of the Indian Penal Code ('IPC'). The petitioner contends that the learned Magistrate, while passing the impugned order under Section 156(3) of the CrPC, failed to consider that the complainant had not first approached the police authorities before resorting to filing a private complaint directly before the Court. The petitioner further contends that the alleged transaction relating to the collection of octroi occurred at Sangli, where both the Head Office of the Corporation and the complainant's residence are located. Despite this, the complaint was filed at Miraj, raising questions of territorial jurisdictions. Furthermore

it is contended that the complainant has deliberately suppressed the material fact of civil disputes pending before the competent Civil Court concerning the same subject matter. The petitioner asserts that the dispute essentially pertains to alleged breaches arising from contractual obligations, and the matter is civil in nature.

4. On the other hand, learned Counsel for respondent No.1, submits that an order passed under Section 156(3) CrPC is purely administrative in nature and no illegality can be attributed to it. It is further submitted that the mere pendency of civil suits or arbitration proceedings does not bar filing of a criminal complaint if the allegations disclose the commission of cognizable offences.

5. This Court has given anxious considerations to the rival submissions made across the bar and perused the record.

6. In *Ranjit Singh Bath & Anr. Vs. Union Territory Chandigarh & Anr.*, Cri. Appeal No.4313 of 2024 SC, it was observed as follows :

“7. The requirement of Sub-Section (1) of Section 154 is that information regarding commission of a cognizable offence has to be furnished to an officer in-charge of a police

station. In this case, obviously, the said compliance was not made. It is stated that the Inspector General of Police forwarded a complaint to the Economic Offences Wing. Sub-Section (3) of Section 154 comes into picture only when after a complaint is submitted to the officer in-charge of police station or information is provided to the officer in-charge of police station regarding commission of a cognizable offence, the officer in-charge refuses or neglects to register First Information Report.

8. Sub-Sections (1) and (3) of Section 154 of the CrPC are the two remedies available for Setting the criminal law in motion. Therefore, this Court held that before a complainant chooses to adopt a remedy u/s 156(3) of the CrPC, he must exhaust his remedies u/s Sub-Section (1) and (3) of Section 154 of the CrPC and he must make those averments in the complaint and produce the documents in support. However, in this case, the second respondent did not exhaust the remedies. In this view of the matter, we find that both the learned Magistrate and the High Court have completely ignored the binding decision of this Court in the case of Priyanka Srivastava.

9. We, therefore, quash and set aside both the impugned orders and quash and set aside all the further steps taken on the basis of order dated 14 June 2017 passed by the learned Judicial Magistrate.”

7. Upon a careful perusal of the record, and in particular the complaint, it becomes evident that there is a complete absence of any averment indicating compliance with the mandatory requirements under Sub-Sections (1) and (3) of Section 154 of the CrPC. It is apparent that the complainant did not avail himself of the remedy prescribed under Section 154(3) of the CrPC before approaching the Court. As per Sub-Section (1) of Section 154, any information relating to the commission of a cognizable offence must first be furnished to the officer in-charge of the concerned Police Station. This procedural requirement is crucial to initiate the criminal law machinery but appears to have been overlooked in the present case. Both Sub-Sections (1) and (3) of Section 154 CrPC provide preliminary remedies for a complainant to set the criminal process in motion. It is well-settled that before invoking the jurisdiction of the Magistrate under Section 156(3) CrPC, the complainant should first exhaust the remedies provided under Sub-Sections (1) and (3) of Section 154 CrPC, and the complaint must contain specific averments to that effect, supported by relevant documents. In the present matter, however, respondent No.1 failed to demonstrate that he had taken appropriate steps to comply with these statutory requirements. Consequently, the initiation of proceedings under Section 156(3) CrPC without first exhausting the remedies u/s 154 CrPC is procedurally

flawed.

8. In light of above, the impugned orders are quashed and set aside and the petition stands allowed accordingly.

[R.N. Laddha, J.]