

SAINATH

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

WRIT PETITION NO. 1228 OF 2025

Ravindra Maruti Jakkani

..Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Balasaheb Deshmukh, for petitioner.

Mr. P. P. Malshe, APP for respondent - State.

CORAM: N. J. JAMADAR, J.

DATE : 04th DECEMBER 2025

P.C.:

1. Heard Mr. Deshmukh, the learned Counsel for the petitioner.

2. The challenge in this petition is to an order dated 26th August, 2024 whereby the learned Additional Sessions Judge, Greater Mumbai, dismissed the revision application preferred by the petitioner against an order dated 19th December, 2023 passed by the learned Metropolitan Magistrate, thereby declining to direct registration of F.I.R and investigation under Section 156(3) of the Code of Criminal Procedure.

3. The learned Magistrate was of the view that, having regard to the nature of the accusation and the fact that the complaint was based on documents, investigation, as contemplated under Section 156(3) of the Code, was not necessary and, thus, the complaint was directed to be posted for recording the verification statement of the complainant.

4. Mr. Deshmukh, the learned Counsel for the petitioner, submitted that, once the complainant had made allegations which clearly make out cognizable offences, it was not open for the Magistrate to decline to direct the Police to register the F.I.R. It was submitted that, the complainant had initially approached the jurisdictional Police. Upon failure of the jurisdictional Police to register the F.I.R., the complainant had approached the jurisdictional Magistrate. It was, therefore, incumbent upon the Magistrate to direct the investigation under Section 156(3) of the Code. Mr. Deshmukh placed reliance on the judgment of the Supreme Court in the case of **Kailash Vijayvargiya Vs. Rajlakshmi Chaudhuri & Ors**¹.

5. I have perused the allegations in the complaint. Evidently, the genesis of the complaint is in the disputes between the

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complainant, a member of the Co-operative Housing Society, on the one part, and the accused arraigned in the complaint - the office bearer of the society, on the other part. The gravamen of indictment against the accused is that by an order dated 31st October, 2022 the Deputy Registrar, Co-operative Societies, had appointed an authorized officer to manage the affairs of the society, an intimation was given to the accused on 03rd November, 2022 that the authorized officer would take charge of the affairs of the society on 10th November, 2022 and, yet, the accused by preparing an ante-dated notice convened the meeting of the management committee and passed a resolution against the petitioner and authorized Accused No. 3 to file a petition before the Competent Court. In the said petition, the Accused No. 3 declared himself to be the Secretary of the Society, though he had ceased to hold the said office.

6. *Prima facie*, the aforesaid allegations are such that, the exercise of discretion by the learned Magistrate not to direct investigation under Section 156(3), cannot be faulted at. It is well recognized that, when a complaint is filed before the learned Magistrate, he has discretion to either direct investigation under Section 156(3) or take cognizance of the offences or postpone the issuance of process and conduct, or

cause to be conducted, an inquiry under Section 202 of the Code.

7. Undoubtedly, when the Magistrate is satisfied that, the allegations made in the complaint disclose commission of cognizable offences, he must direct registration of an F.I.R. and leave it to the investigating agency to find facts and ascertain the truth of the allegations. However, in cases of the present nature, where the genesis of the offences is in a long standing dispute and legality of the resolutions passed by the managing committee of the Society is sought to be questioned and, on that premise, allegations of commission of cognizable offences are made, the exercise of discretion not to straightaway direct registration of F.I.R and investigation under Section 156(3) of the Code, cannot be said to be in dissonance with law.

8. The learned Sessions Judge was, thus, justified in declining to exercise the revisional jurisdiction as there was neither a jurisdictional error nor material irregularity.

9. The petition thus stands dismissed.

[N. J. JAMADAR, J.]