

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

CRIMINAL WRIT PETITION NO.2240 OF 2025

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Gurudas Baburao Kharode

.. Petitioner

Vs.

State of Maharashtra & Anr.

.. Respondents

...

Mr. Priyal G. Sarda a/w. Ms. Seema S. Dighe and
Mr. Praveen Kamble, Advocates for the Petitioner

Mrs. Mahalaxmi Ganapathy, Additional Public
Prosecutor with Mr. J. P. Yagnik, Additional Public
Prosecutor for Respondent No.1-State

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 22nd DECEMBER 2025

P.C. :

This writ petition seeks a direction to the Investing Officer to file an additional or supplementary charge-sheet in First Information Report No.228 of 2024. The petitioner, who is an accused in the said crime, seeks a further direction to restrain the victim from defaming the petitioner and creating disturbance in his personal and family life.

2. Mrs. Mahalaxmi Ganapathy, the learned Additional Public Prosecutor states that the aforementioned criminal case is listed before the Court concerned for framing of charges.

3. Mr. Priyal G. Sarda, the learned counsel for the petitioner refers to the decision in *"Babubhai & Ors. v. State of Gujarat & Ors."* (2010) 12 SCC 254 and submits that the High Court may issue a direction for a fair and impartial investigation in the interest of justice. The investigation carried out so far, even if culminated in

filing of the charge-sheet is vitiated on account of the investigation not being done in a fair and proper manner and has resulted into miscarriage of justice.

4. The decision in *Babubhai & Ors* refers to an order passed by the High Court quashing the First Information Report and clubbing the matter for investigation along with another First Information Report lodged by the police. The High Court further issued a direction to the State CID, Crime Branch to investigate the matter along with the second First Information Report. The Hon'ble Supreme Court referred to the decision in "*T.T.Antony v. State of Kerala*" (2001) 6 SCC 181 and other judgments and came to the conclusion that the incident in both the First Information Reports was common. Under the scheme of the Code of Criminal Procedure, 1973 (in short, Cr.P.C.) when a report is submitted under section 173 of Cr.P.C. on completion of the investigation, the Magistrate has three options; (i) to accept the report and take cognizance of the crime (ii) to decline to accept the report and drop the proceedings and (iii) to order further investigation under sub-section (8). If the statutory report is submitted under sub-section (8) and the Court accepts or declines to accept the police report, there is no provision in the Cr.P.C. authorising the Magistrate or the Court to order or pass any order directing further or fresh investigation. We assume that the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India may pass an order even where the Court concerned has taken cognizance of the offence and the matter is posted for framing of the charges. However, it is a well settled principle that the jurisdiction under Article 226 of the Constitution of India shall not be exercised contrary to the statutory provisions and even if it is so exercised in a peculiar facts and circumstances of

the case, the present one is not a case of such magnitude. The prayer made in the writ petition is completely misplaced inasmuch as the petitioner seeks filing of additional or supplementary charge-sheet which can be filed normally only to add a further offence or another accused person.

5. Criminal Writ Petition No.2240 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]