



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 954 OF 2025

[Miss Arshiya Anjuman Shakiluddin vs. State of Maharashtra,
through P.S.O., Hiwarkhed (Rooprao), Tq. Telhara, Dist. Akola and anr.]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. T. A. Mirza, Advocate for the petitioner
Mr. S. S. Doifode, A.P.P. for the State/respondents

CORAM: ANIL L. PANSARE
AND RAJ D. WAKODE, JJ.

DATE : 08-12-2025.

On previous date, following order was passed.

“The petitioner has approached this Court with a prayer to direct respondent no.1 to register First Information Report (FIR) against accused persons as regards the incident that occurred on 27/9/2025. According to the petitioner, she is a victim of rape. She lodged a report with respondent no.1 – Police Station, Akola, that on 27/9/2025, while she was returning back to her home, she was abducted by brothers of the accused. However, respondent no.1 treated it as a non-cognizable offence. The petitioner is aggrieved by the said action.

2] In our view, once the Police has taken cognizance of the complaint, and found that the offence reported is a non-cognizable offence, the option, which is available to the petitioner, is to approach jurisdictional Magistrate under Section 155 of the Code of Criminal Procedure, 1973 (Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023). In any case, once a non-cognizable

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report is filed, prayer to register FIR will be not maintainable.

3] *At this stage, the Counsel for the petitioner seeks time to have research on the point. Granted.*

4] *List after two weeks.”*

2. The issue involved is covered by the order passed by this Court in the case of ***Criminal Writ Petition No. 660/2022 (Nitin Shivdas Satpute Vs. State of Maharashtra) dated 22-12-2023*** wherein the Court held as under :-

“18. *In my view, this mindset should change. In appropriate cases, the Investigating Officer should approach the jurisdictional Magistrate and seek permission to investigate the offence. The question may come in the mind of the investigating officer as to what parameters should be applied to determine an appropriate case. In my view, the appropriate case would be the one, in which the non-cognizable offence has been committed, not in the spur of moment but otherwise. In other words, the non-cognizable offence, which occurred in the spur of moment may be a case where the investigating agency need not approach the jurisdictional Magistrate to seek permission to investigate the crime and will be justified in leaving the things to be carried forward by of the informant, who may then file application under sub-section (2) of Section 155 of the Code with the jurisdictional Magistrate and seek direction against the investigating agency to investigate the offence. The informant/complainant may also file complaint under Section 200 of the Code in this regard. Thus, there are two options available to the*

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informant/complainant, one is to submit application under sub-section (2) of Section 155 of the Code seeking direction to investigate the offence; and the other is to file complaint under Section 190/200 of the Code.”

Thus in appropriate cases, the Investigating Officer should approach the jurisdictional Magistrate and seek permission to investigate the offence. Accordingly, the Investigating Officer, in the present case, may opt for this option. At the same time, the petitioner may also approach Magistrate under sub-section (2) of Section 155 of the Code of Criminal Procedure, 1973 (for short ‘the Code’) seeking direction to investigate the offence or she may file complaint under Section 190/200 of the Code.

3. With the aforesaid directions, the petition is disposed of.

(JUDGE)

(JUDGE.)

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