



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

CRIMINAL APPLICATION (APL) NO. 1511 OF 2024

ANIQUE AHMAD KHAN

Vrs.

THE POLICE STATION OFFICER, CITY KOTWALI, AMRAVATI AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D. V. Mahajan, Advocate a/w Shri A. T. Sheikh, Advocate for
applicant.
Ms. T. H. Khan, APP for Non-applicant No.1.
Shri N. S. Khandewale, Advocate for Non-applicant No.2.

CORAM: RAJNISH R. VYAS, J.

DATE : 24/09/2025.

1. Heard Shri Mahajan, learned counsel for the applicant, Ms. Khan, learned APP for Non-applicant No.1 and Shri Khandewale, learned counsel for Non-applicant No.2.

2. The applicant has preferred the instant application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

3. The applicant is the original accused. Non-applicant No.2 is the original complainant. A prayer was made by Non-applicant No.2 before the Magistrate's Court for directing registration of offence under Section 156(3) of the Code of Criminal Procedure which was allowed. Accordingly, investigation was carried out and after completion of investigation, since material was not found,

“A” summary was filed before the Court of Magistrate. The complainant was not satisfied with the investigation done and therefore, he filed protest petition. The protest petition was considered by the Magistrate and ultimately on 13/10/2023, the Chief Judicial Magistrate, Amravati passed the following order :-

“1. The applicant is directed to lead his evidence as per section 200 of Cr.P.C.

2. The application of the applicant filed u/s 156(3) of Cr.P.C. be registered as Regular Criminal Case.

3. Accordingly, A-summary filed by City Kotwali Police Station is disposed off.”

4. Perusal of the order would reveal that the applicant i.e. original complainant was directed to lead his evidence as per Section 200 of the Code of Criminal Procedure. It was further directed that the application filed under Section 156(3) of the Code of Criminal Procedure be registered as Regular Criminal Case and “A” summary was disposed of. Thereafter, an application was moved by the original complainant dated 16/01/2024 for registration of application filed by him under Section 156(3) of Cr.P.C. as Regular Criminal Case in view of the order dated 13/10/2023. On the said application, order was passed as under :-

“CC to comply the order dated 13/10/2023.”

5. On the basis of said order, summons was issued by the Court of Chief Judicial Magistrate, Amravati.

6. It is this procedure which is challenged by the original proposed accused before this Court.

7. I have gone through the record of the proceeding so also heard learned counsel in detail.

8. The procedure adopted by the learned Magistrate Court is unknown to law. Once the original complainant was directed to lead his evidence as per Section 200 of the Code of Criminal Procedure, then before calling upon the accused to appear, it was incumbent to follow the procedure prescribed for trying a private complaint i.e. admittedly which was not done in this matter. No verification statement has been recorded and no process has been issued. The said issue goes to the root of the matter.

9. In the aforesaid background, I therefore, set aside the order dated 13/10/2023.

10. In the aforesaid background, the proceedings are restored at the stage of leading evidence as per Section 200 of Code of Criminal Procedure.

11. The learned Magistrate is directed to follow the procedure prescribed for trying private complaint and

thereafter to take appropriate decision regarding issuance of process in accordance with law.

12. In the aforesaid background, order dated 13/10/2023 passed by the Chief Judicial Magistrate directing registration of application filed under Section 156(3) of the Code of Criminal Procedure is set aside.

13. Needless to mention that summons dated 18/06/2024 issued by the Chief Judicial Magistrate, Amravati cannot survive.

14. The application is disposed of.

[RAJNISH R. VYAS, J.]