



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1782 OF 2025

Samad Shah Dagadu Shah Fakir
VERSUS
The State Of Maharashtra And Others

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- Mr. R. T. Kotali, Advocate for the Petitioner
- Mr. K. K. Naik, APP for Respondent No. 1 - State

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CORAM : MEHROZ K. PATHAN, J.

DATED : 12.01.2026

PER COURT :

1. The petitioner has filed the present petition praying for quashing and setting aside the order dated 21.08.2023, passed by the learned 2nd JMFC, Amalner, in Criminal Miscellaneous Application No. 293 of 2022, and the order dated 06.11.2025, passed in Criminal Revision Application No. 43 of 2023, whereby the prayer made by the applicant for directions under Section 156(3) of the Code of Criminal Procedure to register an FIR against respondent Nos. 2 to 5 herein came to be rejected and the said rejection was upheld by the Revisional Court.

2. The learned counsel for the petitioner submits that the petitioner had made a complaint to the police under Section 154(1) of Cr.PC.; however, the police authorities did not register the FIR. The petitioner thereafter approached the Superintendent of Police under

Section 154(3) of Cr.P.C.; however, no cognizance was taken. In such circumstances, the petitioner had no alternative but to file an application under Section 156(3) of Cr.P.C., which came to be rejected without considering the complaint on merits.

3. Learned counsel for the petitioner further submits that one Bhikan Ramdas Dhobi went to Surat in search of employment along with his family in the year 2019 and a missing report was lodged at Udhan Police Station, Surat. Thereafter, no information was received about Bhikan Ramdas Dhobi. Despite this, respondent Nos. 2 to 4 herein made an entry of death of Bhikan Ramdas Dhobi in the Gram Panchayat register on 31.12.2019 at Mauja Pilode, wherein respondent No. 2 – Avinash was shown as the informant along with his signature and thumb impression. It is submitted that two death entries at page No. 48 in 1st report and page No. 68 in 2nd report of the same person were taken by the non-applicants and respondent Nos. 2 to 4 thus illegally recorded the death of Bhikan Ramdas Dhobi.

4. It is further submitted that the death entry of one Yusuf Amir Khatik was also illegally recorded without verifying the truthfulness of his alleged death. The complainant thereafter filed a complaint against all the concerned persons; however, the police did not take any action. Consequently, the petitioner approached the Superintendent of Police, but even then no action was taken. The

learned JMFC failed to apply its mind to the fact that there were two death entries of Bhikan Ramdas Dhobi at Mauja Pilode, which warranted investigation against the concerned respondents.

5. It is further submitted that the death of Yusuf Amir Khatik was wrongly recorded without verifying the truthfulness. Entry No. 24 in the name of Yusuf Amir Khatik was taken in the Gram Panchayat record on 06.12.2021. Thus, a cognizable offence was made, which, according to the petitioner, required issuance of directions for registration of FIR against respondent Nos. 2 to 4. Respondent No. 2 is stated to be the son of the then Deputy Sarpanch. The mother of respondent No. 2 was the Deputy Sarpanch of the village and was managing the affairs of the village. Respondent No. 3, Pawan Wagh, was the Gram Sevak of Gram Panchayat Pilode at the relevant time, and respondent No. 4, Narendra Patil, was the then Sarpanch when the alleged fraudulent entries were made. It is further submitted that upon calling for a report, it was found that the entries of death of Bhikan Dhobi and Yusuf Khatik in the Gram Panchayat record was bogus. The said entries were allegedly made with a view to avail benefits of the Gharkul Scheme and, therefore, respondent Nos. 2 to 5 were liable to be prosecuted. Respondent No. 5 – Yogesh @ Ganesh is the son of Bhikan Dhobi, who has prepared a false report. The learned JMFC failed to consider that the police report itself reflected

illegal entries and that respondent Nos. 2 to 4, being office bearers of the Gram Panchayat, were required to be prosecuted.

6. The learned counsel further submits that the Revisional Court also failed to apply its mind to the fact that despite the police report, the learned JMFC did not direct registration of FIR and further investigation. The Revisional Court also failed to appreciate that the learned JMFC committed a grave error in rejecting the application under Section 156(3) of Cr.P.C. The Revisional Court has passed a cryptic order rejecting the revision application. It is submitted that the impugned orders have been passed mechanically without recording cogent reasons for rejecting the application under Section 156(3) of Cr.P.C., and therefore, the revisional order also deserves to be set aside.

7. As against this, the learned APP appearing on behalf of the respondent – State opposes the petition on the ground that both the learned JMFC and the Revisional Court have duly applied their minds to the facts of the case and passed the impugned orders. It is submitted that the petition is, therefore, devoid of substance and merit and is liable to be rejected.

8. I have carefully gone through the orders passed by the learned JMFC as well as the learned Revisional Court. The learned JMFC, Amalner, has specifically observed that in order to verify the

truthfulness of the allegations made against respondent Nos. 2 to 5, the documents produced along with the complaint, as well as the report submitted by the concerned Police Station Officer to the Superintendent of Police was verified. It was observed that the petitioner had mischievously filed the application under Section 156(3) of Cr.P.C. to harass the non-applicants. It was found that the death report of Bhikan Dhobi was made on the basis of the affidavit of his wife Ashabai, who affirmed on oath that her husband died on 30.12.2019 at Pilode. The entry of death was recorded at Entry No. 13 based on her statement, bearing her thumb impression, and respondent No. 2 had signed the said document. Respondent No. 3, the Gram Sevak, stated that the death entry of Yusuf Khatik was recorded on the basis of information given by his son Juner Yusuf Khatik. The proceedings of the Gram Panchayat monthly meeting reflected the entry of death of Yusuf Khatik dated 06.12.2021, which was affirmed by all members of the Gram Panchayat, and the said entry also recorded the name of his son as the informant.

9. Thus, after considering the initial enquiry conducted by the concerned Police Station Inspector and the report submitted to the Superintendent of Police, the learned JMFC exercised its discretion and rejected the application seeking directions for registration of FIR under Section 156(3) of Cr.P.C.

10. The Hon'ble Supreme Court in the case of ***Priyanka Srivastava and Another Vs. State of Uttar Pradesh and Others; (2015) 6 SCC 287*** has held as under :-

“30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.”

11. Thus, in view of the aforesaid law laid down by the Hon'ble Supreme Court, the approach adopted by the learned JMFC does not call for any interference. The learned JMFC has applied its mind to the allegations and considered the report submitted by the Police Inspector to the Superintendent of Police, Amalner. It was also found that the complaint was filed mischievously to harass the non-applicants. The order dated 21.08.2023 does not reflect any non-application of mind or arbitrariness on the part of the learned JMFC

and does not warrant interference under Article 226 of the Constitution of India.

12. Insofar as the order dated 06.11.2025 passed by the learned Additional Sessions Judge, Amalner, dismissing the revision is concerned, the Revisional Court has also found that there was no dishonest or fraudulent intention on the part of respondent Nos. 2 to 5 in making the said entries. The respondents acted on affidavits and declarations made by close relatives of the deceased persons, which is permissible in law. The Revisional Court further observed that there was nothing on record to show that the respondents fabricated any document or made false entries with an intention to cheat. It was also observed that the order passed by the learned Magistrate was reasoned and did not suffer from illegality, impropriety, or perversity.

13. Thus, the observations of the learned Revisional Court reflect due application of mind to the order passed by the learned JMFC as well as the submissions made by the petitioner. The order dated 06.11.2025 also does not suffer from any illegality, material irregularity, or error. The impugned orders therefore deserve to be maintained. The petition is devoid of substance on merits and is accordingly dismissed.

(MEHROZ K. PATHAN, J.)