

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.6769 OF 2025**

Aryan Manish Kapoor	...	Petitioner
versus		
Manish Chandra Behari Kapoor and Anr.	...	Respondents

Mr. Naveen Kumar Sharma, for Petitioner.
Mr. A.D.Kamkhedkar, for State.

CORAM: N.J.JAMADAR, J.

DATE : 29 JANUARY 2026

P.C.

1. Heard the learned Counsel for the Petitioner.
2. This Petition under Article 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 calls in question the legality, propriety and correctness of a judgment and order dated 22 October 2024 passed by the learned Sessions Judge, Pune, in Criminal Revision Application No.320 of 2023, whereby the revision preferred by the Petitioner – original complainant against an order dated 27 July 2023 passed by the learned Magistrate in Criminal Misc. Application No.1587 of 2023, thereby rejecting the prayer of the Petitioner to direct the investigation under Section 156(3) of the Code of Criminal Procedure, 1973 (the Code) came to be dismissed by affirming the order passed by the learned Magistrate.
3. Respondent No.1 – accused is the father of the complainant. In the

wake of the matrimonial discord, the accused and the mother of the complainant have been residing separately. The complainant and his brother reside with their mother. Various proceedings are subjudice.

4. In the year 2012, the grand father of the complainant had sold a property and invested the sale proceeds in the names of his grand children, including the complainant. Fixed deposit accounts were opened in the name of the complainant, through Respondent No.1 as a guardian.

5. The complainant alleged, on 13 April 2022, the accused without the consent and knowledge of the complainant or his mother, closed the said fixed deposit account and committed criminal breach of trust by converting the amount to the tune of Rs.31,39,083/-. As the police did not take any action, the complainant filed a private complaint being, Cri. M.A.No.1587 of 2023, in the Court of the learned Magistrate.

6. By an order dated 27 July 2023, the learned Magistrate declined to give direction to register the FIR and carry out the investigation under Section 156(3) of the Code, and, instead directed the complainant to proceed under Section 200 of the Code.

7. Being aggrieved, the complainant preferred a revision before the learned Sessions Judge. By the impugned order, the revision application came to be dismissed observing, inter alia, that the order passed by the learned Magistrate was interlocutory in nature, and, thus, the revision was not

maintainable against the said order.

8. Mr. Sharma, learned Counsel for the Petitioner – complainant, would urge that the learned Magistrate as well as the learned Sessions Judge approached the controversy from an incorrect perspective. A clear case of criminal breach of trust was made out. Attention of the Court was invited to a certificate dated 2 May 2023 issued by the IDBI Bank, which indicates that FD accounts were closed by the accused on 13 April 2022 and maturity proceeds of Rs.31,39,083/- were received by the accused. It was submitted that, how the said amount was converted to his own use by the accused and who were the accomplices of the accused, can only be unearthed in an investigation by the police. Learned Magistrate was, therefore, not justified in declining to issue directions for investigation under Section 156(3) of the Code, 1973.

9. The facts, as emerged from the record, are fairly clear. Incontrovertibly, FD accounts were opened in the name of the complainant, while he was a minor through the accused as the former's guardian. Those FD accounts were closed by the accused on 13 April 2022 in the purported exercise of the authority to operate the said FD accounts.

10. Whether the said act constitutes criminal breach of trust or cheating as alleged, is the matter which revolves around documents. The gravamen of indictment against the accused is that, by taking undue advantage of the guardianship, and, the authority to operate FD accounts, the accused

dishonestly closed the FD accounts and misappropriated the amount therein.

11. In the backdrop of the aforesaid nature of the indictment, learned Magistrate was justified in declining to direct the registration of the FIR and investigation under Section 156(3) of the Code. It is well recognized that, where a private complaint is filed, learned Magistrate has options to direct investigation under Section 156(3), take cognizance of the offences or postpone the issue of process and conduct or cause to be conducted an inquiry under Section 202 of the Code. **(Tula Ram and Ors. V/s. Kishor Singh¹).**

12. In the case at hand, it does not appear that the learned Magistrate has exercised the discretion not to direct investigation under Section 156(3), and instead direct the complainant to proceed under Section 200 of the Code, unjustifiably. As the learned Magistrate has ascribed justifiable reasons, this Court in exercise of the supervisory jurisdiction does not find any legal infirmity in the order passed by the learned Magistrate. Resultantly, the Writ Petition does not deserve to be entertained.

13. Hence, the Writ Petition stands dismissed.

(N.J.JAMADAR, J.)

1 (1977) 4 SCC 459