

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

CRIMINAL APPLICATION NO. 884 OF 2024

Vasant Suresh Solanki

...Applicant

Versus

Vianney Regie Dsouza And Anr

...Respondents

Mr. R. V. Gupta, a/w Rohit Vaishya, for the Applicant.

Mr. D. J. Haldankar, APP for the State – Respondent.

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CORAM: N. J. JAMADAR, J.

DATED: 22nd JANUARY, 2026

Oral Order:-

1. Heard the learned Counsel for the applicant.
2. The challenge in this application is to an order dated 12th January, 2024, whereby the revision application preferred by the applicant against an order passed by the learned Magistrate on 3rd November, 2020 in Complaint No.127/Misc/2020 came to be dismissed.
3. The applicant had preferred the complaint alleging commission of the offences punishable under Sections 465, 467, 468, 471, 406 and 420 of the Indian Penal Code, 1860. The applicant had sought a direction for registration of FIR and investigation under Section 156(3) of the Code of Criminal Procedure, 1973 ("the Code"). By an order dated 3rd November,

2020, the learned Magistrate rejected the prayer for a direction of investigation under Section 156(3) of the Code and, instead, directed the complainant to examine himself and the witnesses under Section 200 of the Code.

4. Being aggrieved, the applicant preferred a revision application before the Court of Session. By the impugned order, the learned Additional Sessions Judge dismissed the revision application as not maintainable on the premise that, the order passed by the Magistrate was an interlocutory order.

5. The order dated 3rd November, 2020, passed by the learned Magistrate, does not divulge reasons which weighed with the learned Magistrate in declining the prayer to direct investigation under Section 156(3) of the Code. The learned Magistrate has simply observed that in the view of the learned Magistrate the case was not fit for a direction for investigation under Section 156(3) of the Code. Undoubtedly, the learned Magistrate is empowered to either direct investigation under Section 156(3) of the Code or proceed under Section 200 of the Code. However, when a specific prayer for investigation under Section 156(3) is made and the learned Magistrate decides not to direct such investigation, reasons, howsoever brief, ought to be recorded so that the revisional or writ Court could test the legality and

correctness of the exercise of the jurisdiction by the learned Magistrate.

6. In these circumstances, the application deserves to be partly allowed and the matter remitted back to the learned Magistrate for a fresh decision after providing an opportunity of hearing to the applicant – complainant.

7. The application, thus, stands partly allowed.

8. The impugned order as well as the order dated 3rd November, 2020 passed by the learned Magistrate stand quashed and set aside.

9. The learned Magistrate is directed to pass a fresh order on the prayer of the applicant for a direction for investigation under Section 156(3) of the Code, after providing an opportunity of hearing to the applicant – complainant.

10. The application stands disposed.

[N. J. JAMADAR, J.]