

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

CRIMINAL WRIT PETITION NO. 811 OF 2025

Vivek Omprakash Chandel and others.

... Petitioners.

Vs.

The State of Maharashtra and another.

... Respondents

Mr.Aditya Rai with Divakar Rai, Saurabh Tamhankar, Raj Tamhankar,
Vayukumar Tiwari i/b. Ramchandra Rane for the Petitioners.
Mr.Y.M.Nakhwa, APP for the Respondents.

**SANJAY
KASHINATH
NANOSKAR**

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CORAM : RANJITSINHA RAJA BHONSALE , J.
DATED : 2nd FEBRUARY 2026.

JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally by consent of parties.
2. By the present Petition filed under Article 226 and 227 of the Constitution of India and under section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023, the Petitioners are seeking quashing of F.I.R No.99/2024 registered with Sakinaka Police Station, Mumbai for the offences punishable under sections 146(g), 146(h) and 146(p) of the Maharashtra Co-operative Societies Act, 1960 ("Act of 1960" for short).

3. Heard Mr.Rai, learned Advocate for the Petitioners and Mr.Nakhwa, learned A.P.P for the Respondents- State.

4. The main contention of the Petitioners is that none of the offences alleged in the F.I.R are punishable with sentence more than three years. That, the said offences are non-cognizable in nature, and therefore the F.I.R ought not to have been registered. That, under section 148 of the Act of 1960, the complaint ought to have been filed before the Metropolitan Magistrate or Judicial Magistrate of the First Class only with the previous sanction of the Registrar.

5. The F.I.R has been registered only under sections 146(g), 146(h) and 146(p) of the Act of 1960. No other offence, is alleged to have been committed nor any other offence is applied. Section 147(g) provides for punishment of fine upto Rs.5,000/- for the offence committed under section 146(g). Section 147(h) provides for punishment of fine of Rs.5,000/- for the offence committed under section 146(h). Section 147(p) provides for punishment of imprisonment for a term which may extend to three years or with fine which may extend to Rs.15,000/- or with both for the offence punishable under section 146(p). None of the offences alleged in the F.I.R are punishable with sentence for more than three years. The offences being non-cognizable, the F.I.R could not have been registered. Section 148 of the Act of 1960 reads as under:

148. Cognizance of offences.

(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class, shall try and offence under this Act.

(2) [* * * * *]

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the Registrar.

6. Perusal of the offences mentioned in the F.I.R shows that none of the offences is punishable with sentence more than three years. Consequently, since the offences are non-cognizable, F.I.R could not have been registered by the police. Section 148 makes it clear that cognizance of offence can be taken only by the Metropolitan Magistrate or Judicial Magistrate of the First Class and that, no prosecution under the Act shall be lodged, without the previous sanction of the Registrar. Considering the facts, it is clear that what can be lodged is only a private case which as per section 148 of the Act of 1960 has to be filed before the Magistrate. An F.I.R by the police is not contemplated. A useful reference in this regard can be made to the decision of Nagpur Bench of this Court in the case of *Shri Manoranjan s/o Ramdas Rathod v. State of Maharashtra and another*, Criminal Application No.1799/2010 decided on 22nd June 2015. In similar set of facts, the Division Bench of this Court has quashed and set aside the F.I.R therein.

7. I therefore find that, the registration of F.I.R against the present Petitioners is contrary to section 148 of the Act of 1960. Considering the

scheme of the Act, present F.I.R ought not have been registered by the police. Therefore, the F.I.R is liable to be quashed and set aside.

8. In view of the above, Petition is allowed. Rule is made absolute in terms of prayer clause (b).

9. Needless to say that, quashing of the F.I.R does not result in condoning the offences/ acts. It shall be open to the concerned Authority under the said Act to proceed against the Petitioners in that regard in accordance with law.

(RANJITSINHA RAJA BHONSALE, J.)