

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.420 OF 2026

Ashvinikumar Gowtamrao Jamdade

...Applicant

Versus

The State Of Maharashtra & Ors.

...Respondents

Mr. Abdul Hafeez Yakub Kotwala, appointed through Legal-Aid, for the Applicant.

Ms. S. M. Yadav, APP, for the Respondent-State.

PSI Sunil Jagadale, Warje Police Station, Pune, present.

Coram: Madhav J. Jamdar, J.

Date: June 15, 2026

P.C.:

1. Heard Mr. Abdul Hafeez Yakub Kotwala, learned Counsel appointed to represent the Applicant and Ms. Yadav, learned APP, for the Respondent-State.
2. By the present Criminal Application, the Applicant is seeking to challenge the Order dated 30th October 2025 passed by the learned Additional Sessions Judge, Pune in Criminal Revision No.423 of 2024.
3. It is the submission of Mr. Abdul Hafeez Yakub Kotwala, learned Counsel for the Applicant, that the Applicant was not granted an opportunity of hearing. Apart from that, he submits that if the Revision was dismissed as not maintainable, the learned Additional Sessions Judge ought not to have gone into the merits of the matter. He,

therefore, submits that the impugned Order be quashed and set aside.

4. On the other hand, Ms. Yadav, learned APP supported the impugned Order.

5. Before considering the rival contentions, it is necessary to set out certain factual aspects :-

- i. The Applicant, who is a practicing Advocate, filed a case bearing RCC No.3629 of 2018, alleging that Accused Nos.2 and 4 were playing black magic and that, as a result, he suffered mentally as well as physically.
- ii. The Applicant, therefore, requested the learned JMFC to send the matter for investigation under Section 156(3) of the *Code of Criminal Procedure, 1973* ("**CrPC**"). The said Application was rejected by the learned Trial Court i.e. the learned JMFC.
- iii. The said Order was challenged by filing Criminal Revision No.10 of 2019. The said Revision was dismissed by the learned Additional Sessions Judge, Pune by Order dated 23rd January 2020.
- iv. The said Order dated 23rd January 2020 was challenged by the Applicant by filing Criminal Application No.1461 of 2022. A learned Single Judge by Order dated 1st December 2023 rejected Criminal Application No.1461 of 2022. Paragraph Nos.4 and 5 of the said Order are relevant, which read as under:

"4. After examining the complaint, it is revealed that the complaint does not mention the name and address of accused No.1, instead referring to him as "father of the girl". The allegations of black magic are made against accused No.1 by stating that because of this black magic done to the complainant, he is experiencing pain in his chest and head. The complainant is not claiming that he saw accused No.1 while performing black magic, nor is he claiming that accused No.1 ever came in his contact. The allegations against accused No.2 and 3 are that they allowed their house to be occupied on rent by the girls without verifying what those tenants are doing. All these allegations are non-specific, vague and omnibus.

5. In such circumstances, no case is made out to send the complaint for investigation by police under Section 156(3) CrPC. The Courts have properly exercised their discretion to reject the prayer of the applicant to direct police investigation under Section 156(3) CrPC and have rightly passed the order. As such, the present criminal application stands dismissed."

- v. Thereafter, the learned JMFC recorded the verification of the Complainant under Section 200 of CrPC and sent the matter for inquiry/investigation as per Section 202 of CrPC. The concerned Police Station has filed a Report under Section 204 of CrPC. The said Report is against the Applicant.
- vi. The record shows that the said Report has neither been accepted nor rejected by the learned Trial Court and the same is pending consideration before the learned Trial Court.

6. In view of the above factual aspects, it is necessary to consider the rival contentions.

7. In the impugned Order, the learned Additional Sessions Judge has observed that since the learned Trial Court has neither accepted nor rejected the said Report, the Applicant has an opportunity to raise all contentions before the learned Trial Court. In fact, the Applicant can file a protest petition before the learned JMFC, as the Report submitted by the Investigating Officer is against the Applicant. In any case, no adverse Order has been passed against the Applicant.

8. Accordingly, no interference in the impugned Order is warranted.

9. The Criminal Application is dismissed, however, with no order as to costs.

10. However, it is clarified that this Court has not considered the merits and all contentions on merits are expressly kept open.

11. This Court places on record its appreciation for the assistance rendered by Mr. Abdul Hafeez Yakub Kotwala, learned Counsel appointed to represent the interest of the Applicant.

[Madhav J. Jamdar, J.]