



IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION No. 108/ 2024.

1.Janrao s/o Govindrao Augad,
Aged about 72 years, Occupation -
Retired Government Servant.

2.Mrs.Rekhatai w/o Janrao Augad,
Aged about 62 years, Occupation -
Housewife.

Both residents of “Yashodhan”, 62,
Ganediwal Layout, Camp Amravati
444602.

... **PETITIONERS.**

VERSUS

1.State of Maharashtra,
through PSO of PS Gadge Nagar,
Amravati Taluka & District
Amravati.

2.Gunwant Sudam Deopare,
Age 50 years, Occupation – Director
of Pyramid Areades Pvt. Ltd.,
resident of 101, “Ganesh-Snehal”,
Apartment, South Ambazari Road,
Shraddhanand Peth, Nagpur.

... **RESPONDENTS.**

Mr. P. Mirza, Advocate for the Petitioner.
Mr A. Chutke, A.P.P. for Respondent No.1/State.
Mr.A.B. Moon, Advocate for Respondent No.2.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 16, 2026.

ORAL JUDGMENT :

Heard. Rule. Rule is made returnable forthwith and by consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. Limited grievance raised by petitioners in this petition is that without giving them an opportunity, the order dated 24.11.2023 came to be passed, wherein their complaint was dismissed under Section 203 of the Code of Criminal Procedure by the Additional Chief Judicial Magistrate, Court No.5, Amravati.

3. The learned Counsel appearing for petitioners submit that

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petitioners are not pressing their challenge to the order dated 19.06.2023. It is submitted that petitioners were not having any knowledge about passing of the order in respect of liberty to proceed with the complaint under Section 200 of the Code of Criminal Procedure. That though an order was passed on 19.06.2023 dismissing their application under Section 156[3] of the Code of Criminal Procedure, however, later on the Magistrate has proceeded further under Section 200 of the Code of Criminal Procedure. The learned Counsel further submits that as there was no knowledge, therefore, petitioners could not remain present for recording of verification of the complaint. It appears from the record that the matter was transferred to another Court, therefore, petitioners were not able to keep track and only on three occasions they remained absent. It is therefore, submitted that one opportunity be granted to proceed with the complaint under Section 200 of the Criminal Procedure Code. Hence, prayer made is to quash and set aside the order dated 24.11.2023.

4. On the other hand the learned Counsel appearing for

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respondent no.2 vehemently opposes the prayer of petitioners by submitting that admittedly there is no merit in the complaint itself, therefore, the Magistrate has rightly rejected the application under Section 156[3] of the Criminal Procedure Code. It cannot be said that petitioners were not having any knowledge about the order dated 19.06.2023, wherein opportunity was granted to them to proceed with the complaint. He further submits that on 4 occasions, petitioners remained absent and no option was left with the learned Magistrate but to pass order under Section 203 of the Criminal Procedure Code, whereby the complaint was dismissed. The learned Counsel submits that considering the conduct of petitioners, there is no question of granting any opportunity, and the petition being devoid of merits be dismissed.

5. I have considered the rival submissions canvassed by the learned Counsel for the parties and gone through the record placed before me. Admittedly petitioners had filed an application under Section 156[3] of the Criminal Procedure Code. The said application was rejected by order dated 19.06.2023, however, they have been

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granted liberty to proceed with the complaint in accordance with law, and thereafter, the matter was transferred to another Court for further adjudication. It further appears from the roznama, that petitioners and their Advocates were absent on 4 occasions after rejection of their prayer for directions under Section 156[3] of the Code of Criminal Procedure. Further it appears that by an order dated 24.11.2023, the Additional Chief Judicial Magistrate, Court no.5 Amravati dismissed the complaint under Section 203 of the Code of Criminal Procedure, only on the ground that though the matter was posted for recording of verification of the complaint, neither complainants nor their Advocates remained present before the Court, meaning thereby the complainants are not interested in prosecuting the matter. It is further observed that the matter is pending without any progress for want of steps and presence of the complainants, and accordingly the same was dismissed.

6. Principle of natural justice is a cardinal principal of law. It is expected that every complaint should be decided on its own merits, instead of dismissing the same on mere technicalities. The original

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complainants have approached this Court by challenging the said order, which itself shows that they are very well interested in prosecuting their complaint. It can further be gathered that after rejection of their application under Section 156[3] of the Criminal Procedure Code, the matter was transferred from Judicial Magistrate First Class, Court No.6 Amravati to the Additional Chief Judicial Magistrate, Court No.5, Amravati. It appears that complainants were not having any knowledge about passing of the order dated 19.06.2023. Considering the fact that complaint was not decided on merits, and merely on the basis of technical ground the same came to be dismissed, and therefore, I am of the considered opinion that one opportunity is required to be granted to petitioners, however, the same would be subject to payment of costs. Hence, I proceed to pass the following order :

ORDER

- (i) Criminal Writ Petition is partly allowed and disposed of.
- (ii) The order dated 24.11.2023 passed by the Additional

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Chief Judicial Magistrate, Court No.5, Amravati in R.C.C.No.1024/2022 is hereby quashed and set aside, on payment of costs of Rs.10,000/- (Rs. Ten Thousand only) by petitioners in the account of Public Welfare Account with Union Bank of India, High Court Branch, Civil Lines, Nagpur bearing Account No.129712010001014 (IFSC Code UBIN0812978), within a period of two weeks from today.

- (iii) The petitioners to appear before the trial Court on 08.04.2026, and thereafter the learned Magistrate to proceed further in accordance with law.
- (iv) Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE