

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

CRIMINAL WRIT PETITION NO. 89 OF 2026

Bhanudas Champatrao Shrirame

..vs..

Ravina Prakash @ Chotu Shrirame and anr.

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri Mir Nagman Ali, Advocate for the applicant. (appointed.)
 Shri A.R. Chutke, APP for the State.

CORAM: M.M. NERLIKAR, J.

DATE : 10.02.2026.

Heard.

2. By way of this petition, the petitioner is challenging the order dated 30.06.2025 passed by the learned Sessions Judge, Hinganghat and further seeking direction to the Police Station Officer, Police Station Wadner, District Wardha to register an FIR under Sections 302, 307, 308 and 294 of the IPC against the respondent no. 1 on the basis of the petitioner's complaint and to conduct the investigation.

3. It appears that present petitioner has filed an application under Section 156(3) of the Code of Criminal Procedure for registration of crime for the offence punishable under Sections 302, 307, 308 and 294 of the Indian Penal Code. However, said application came to be dismissed by the Judicial Magistrate First Class Court No.2, Hinganghat on 09.11.2023 holding that mandatory procedure as laid down under Section 154(1) of CrPC has not been followed and further the complaint was not supported by an affidavit. Against this

Revision was preferred, even the same came to be dismissed vide order dated 30.06.2024 by the Additional Sessions Judge Court No.1, Hinganghat.

4. Learned Counsel for the petitioner vehemently submitted that the affidavit in the nature of verification was already part and parcel of the complaint. He has also invited my attention to the postal documents, wherein the acknowledgment, which was addressed to the Police Station, Wadner, bearing signature and date of receipt. He submits that the present petitioner has sent the complaint through post and therefore, there is sufficient compliance as laid down under Section 154(1) of the CrPC. He further submits that complaint is supported by affidavit as at foot of complaint it is stated that the contents from para 1 to 10 are true and correct, which he read over and signed accordingly. Therefore, he submits that it is sufficient compliance as laid down by the Hon'ble Supreme Court in the case of ***Priyanka Shrivastava and anr. vs. State of U.P. and ors. 2015 ALL SCR 1592***, and accordingly, prayed to allow the petition.

5. On the other hand, the learned APP submits that it is not clear from the endorsement itself that the petitioner has sent the complaint or not. Mere endorsement on the acknowledgment itself not sufficient to prove that the petitioner has sent the complaint. He further submitted that perusal of the complaint would show that initially it was addressed to the Police Station, Wadner and thereafter to the Superintendent of Police. Both the complaints appears to have been sent through post. However, it is not clear whether the envelope

contained actual complaint or not.

6. So far as the affidavit part is concerned, it was made mandatory by the Hon'ble Supreme Court, in the case of *Mrs Priyanka Srivastava and anr. vs. State of U.P. and ors. (supra)* and therefore, the learned APP submits that unless the mandatory compliance is there, said complaint is not maintainable and therefore, requested to reject the complaint.

7. I have heard both the parties. It appears that the present petitioner has filed the acknowledgment receipt on the record which would demonstrates that initially it was addressed to PSO of the police station Wadner. Further, it appears from another acknowledgment that the complaint was forwarded to the Police Superintendent of Police Station, Wardha, however whether the envelope contains the complaint or not, it is not clear from these acknowledgments and in what context these acknowledgments were addressed to the PSO and the Superintendent of Police is also not clear. Another ground is in respect of compliance of filing of the affidavit in support of the complaint, wherein this Court has already dealt with the issue in the case of *Harry Inder Dhaul vs. State of Maharashtra and ors. 2023 SCC OnLine Bom 200*, particularly in paragraphs 13 to 17, which read as under :

“13. Let us see whether in the present case, the application/complaint lodged by respondent no. 2 satisfies the compliance referred in cases of Priyanka Srivastava and Sayed Anwar Ahmed (supra).

14. A perusal of the application under section

153(3) of the Cr.P.C. shows that at the foot of the application solemn affirmation is done by the authorized person of respondent no.2. The solemn affirmation appearing at the foot of the application is reproduced here as under:

"SOLEMN AFFIRMATION

I Shripad Prakashrao Moharil, Age – 45 years, resident of Nagpur, do hereby take oath and state on solemn affirmation that the content of above paragraphs no. 1 to 14 have been drafted by my counsel – Adv. Prakash N. Rawlani as per my instructions. That it has been explained to me in my vernacular language, they are true and correct to best of my knowledge and belief.

Hence verified and signed here at Nagpur on this 2nd Day of August 2021."

15. Though, the application is supported by an affidavit in the form of solemn affirmation referred above, but, it does not substantially comply with the requirements set out in paragraph nos. 5 and 8 of chapter VII of the Criminal Manual as directed in the case of Sayed Anwar Ahmed (supra). The paragraph 5 and 8 of Chapter VII of the Criminal Manual are reproduced below:

"5. (1) Every affidavit should clearly specify what portion of the statement is made on the declarant's knowledge and what portion of the statement is made on his information or belief.

(2) When a particular portion is not within the declarant's own knowledge but it is stated from information obtained from others, the declarant must use the expression "I am informed" and if it is made on belief should add "I verily believe it to be true." He must also state the source or ground of the information

or belief, and give the name and address of, and sufficiently describe for the purpose of identification, the person or persons from whom he had received such information.

(3) When the statement rests on facts disclosed in documents or copies of documents procured from any court or other person, the declarant shall state the source from which they were procured and his information, or belief, as to the truth of the facts disclosed in such documents.

6.

7.

8. (1) The Officer authorized in this behalf, shall, before administering the oath ask the declarant if he has read the affidavit and understood the contents thereof, and if the latter states that he has not read it, or appears not to understand fully, the contents thereof, or appears to be blind, illiterate or ignorant of the language in which it is written, the Officer administering the oath shall read and explain or cause some other competent person to read and explain in his presence the affidavit to the declarant in the language which both the declarant and the Officer administering the oath understood.

(2) When an affidavit is read, translated or explained as herein provided the Officer administering the oath shall certify in writing at the foot of the affidavit that it has been so read, translated or explained in his presence and that the declarant understood the same at the time of making the affidavit and made his signature or finger impression in the presence of the

Officer.”

16. In the present case, only at the foot of the complaint, paragraph in the form of solemn affirmation has been made without mentioning what portion of the statement in the application/complaint is made on the personal knowledge of the declarant and what portion of the statement in the application/complaint is made by him on the basis of information and belief. The reasons, for the compliance of these requirements strictly is very obvious as held in Priyanka Srivastava (supra) i.e. to see that the complaint who invokes the jurisdiction under section 156(3) of the Cr.P.C. and put the criminal law in motion, shall be held responsible for any mischief in making out a false case. There should be no scope for the declarant to escape on the technical ground from responsibility attached to the statement made by him in the affidavit. Unless those compliances, referred in paragraph nos. 5 and 8 of chapter VII of the Criminal Manual are complied with, it will be difficult to hold the person making a declaration on oath, responsible for the statement made on an oath.

*17. An affidavit fled without complying with the requirement of Chapter VII of Criminal Manual published by this court, cannot be said to be an affidavit filed in compliance with the direction issued by the apex court in **Priyanka Shrivasta and Sayad Anwar Ahmad**. Thus, we hold that in present case, there is non-compliance of mandatory requirement i.e. fling of the proper affidavit.”*

8. Even this Court has considered the very fact in the case of **Jain Real Estate Builders vs. Parag Prakash Banthia and ors.**, wherein in paragraph 10, this Court has held as under :

“10. From the above, it is crystal clear that affidavit in support of the application filed

under Section 156(3) of the Code is mandatory. It is further to be noted that though at the end, solemn affirmation in the nature of affidavit is appearing, but that by itself would not be sufficient in order to comply the requirements set out in Chapter VII of the Criminal Manual in paragraph Nos.5 and 8, therefore this issue is no more res- integra considering the above law laid down by the Supreme Court as well as this Court referred (supra).”

9. Therefore considering the exposition of law as above even in the present case merely at the end of the complaint “shapath patra” is written, that by itself is not sufficient as held in the above referred judgments.

10. In this view of the matter, I find that there is no affidavit in support of the complaint and further it is very difficult to gather whether actually the complaint was sent through the post to the Police Station or to the Superintendent of Police.

11. Therefore, I am not inclined to grant any relief as prayed by the petitioner. Hence the petition stands rejected.

12. Fees of the appointed Counsel be quantified as per Rules.

(M.M. NERLIKAR, J.)