



ORDER BELOW EXH.01 IN CRIM.A. NO. 313/2022  
(Sangita Janjal v/s. P.s. Chikhli)  
(CNR No. MHBU 130020652022)

The present complaint is filed under Sections 120-B, 498-A, 313, 324, 341 of the Indian Penal Code, in which applicant/complainant has prayed for direction to send the matter for investigation u/s.156 (3) of the Code of Criminal Procedure, 1973 and registration of F.I.R.

2. The applicant/ complainant has stated that, the accused no.1 is her husband. The accused no.2 is her mother-in-law, the accused no.3 is her father-in-law, the accused no.4 is her brother-in-law, the accused no.5 is her sister-in-law, the accused no.6 is the husband of sister-in-law. The accused no.7 is a doctor. The marriage between complainant and accused no.1 was solemnized on 08.05.2020 at Tq. Jafrabad, Dist. Jalna. After the marriage the complainant went to her matrimonial home for cohabitation. The accused treated the complainant well for some days. Thereafter, the accused started Causing mental and physical harassment to the complainant. The complainant was falsely accused of committing theft at her matrimonial home. The accused demanded money to be brought by complainant from her parents home. However, the complainant could not fulfill their demands.

3. The complainant has further contended that during March, April-2022 she was pregnant. The accused threatened to cause abortion of the complainant. The complainant was taken to doctor for abortion. The complainant refused the same. The complainant informed her brother-in-law Sanjay Wagh about the same. The accused no.1 took the complainant to the hospital of accused no.7

under the guise of treatment, the accused no.1 caused the complainant to consume medicine causing miscarriage. As a result, a miscarriage of complainant was caused. The accused took the complainant at village Irla so that the complainant would not go to police station. The complainant was kept in confinement. The complainant managed to run away from accused. She went to her sister's place. The complainant informed about the same to her sister and brother-in-law. The complainant approached the police at Jafrabad. However, as the miscarriage was caused in Chikhli the police informed her to approach Chikhali police station. The complainant approached Chikhali police station. The police did not take any action against the accused. Hence, complainant has filed present complaint. The complainant has prayed that police be directed to register F.I.R against the accused and investigation in the matter. The complainant/applicant seeks directions under section 156(3) of Cr.P.C.

4. Read the complaint. Perused the record. Heard learned advocate Shri A.V. Deshmukh for the complainant.

5. From the allegations in the complaint, it appears that the complainant alleges that the accused no.1 is her husband. The accused have caused illegal miscarriage of complainant. The accused have physically and mentally harassed the complainant.

6. Section 156(3) of the Code of Criminal Procedure empowers the magistrate to direct the police registration of F.I.R. and investigation. It is the settled position of law that for invoking section 156(3) of Cr.P.C., it is necessary that there must be due compliance of section 154(1) and 154(3) of the Cr.P.C. Section 154(1) of Cr.P.C. provides that every information relating to commission of cognizable offence if given orally to an officer in charge of police station shall be

reduced to writing by him or under his direction and substance of same shall be entered into a book kept in that behalf in a prescribed form. Section 154(3) of the Cr.P.C. provides that any person aggrieved by a refusal on the part of an officer in charge of police station to record the information referred in sub section (1) may send the substance of the such information in writing and by post to the superintendent of police concern.

7. Thus, in a case at hand, it appears that the complainant has not approached superintendent of police, Buldana as contemplated in section 156(3) of Cr.P.C. For invoking section 156(3) Cr.P.C., it is necessary that section 154(3) has been duly complied. The same is not with the case at hand.

8. Learned advocate for the complainant has relied of judgment in the case of *Panchabhai Popatbhai Butajni Vs. State of Maharashtra (Bombay) reported in 2010(Cril.L.J) 2723*. In this case, Hon'ble Bombay High Court, inter alia has observed that a complaint can be directly made before a magistrate. It is further observed that there can be cases where non compliance to the provisions of section 154 (3) would not divest the magistrate of his jurisdiction in terms of section 156 (3). There could be cases where the police failed to act instantly and the facts of the case show that there is possibility of the evidence of commission of the offence being destroyed and or tamper with or an applicant could approach the magistrate under section 156(3) of the Code directly by way of an exception as the legislature has vested wide discretion in the magistrate.

9. Thus, from the authority relied on by the learned advocate for the complainant shows that a complaint can be directly

made before a magistrate in exceptional cases. In the case at hand, the learned advocate for the complainant has not shown that the present application comes within the exception as completed in the authority cited supra. Hence, with due respect to said authority it is not applicable in the present case.

10. It is also notable that the accused no.1 is claimed to be husband of complainant. The other accused are claimed to be relatives of accused no.1. The accused no.7 is a registered medical practitioner. Thus, considering the matrimonial relationship between complainant and accused nos. 1 to 6, direction under section 156(3) of Cr.P.C. would be unnecessary.

11. Thus, section 156(3) of Cr,P.C empowers a magistrate to give directions to police for investigation and registration of F.I.R. where there is commission of cognizable offence., The power conferred under this section is discretionary and has to be used judiciously. The dispute between the parties appears to be more of matrimonial dispute in nature. The complainant has prayed for registering F.I.R. for cognizable offence against the accused. Considering the allegations in the complaint, it is not fit case for invocation of discretionary power under section 156(3) of Cr.P.C. Hence, following order is passed-

### **Order**

1. The prayer seeking direction under section 156(3) of Cr.P.C. is rejected.
2. Put up for verification.

Date : 02.01.2023

(Smt. P.R. Kulkarni)  
Judicial Magistrate F.C.  
2<sup>nd</sup> Court, Chikhali.