

	<p><b><u>CRIM. M.A. NO. 21/2024</u></b> <b><u>VIRBHAN RATHOD</u></b> <b><u>V/S.</u></b> <b><u>CHANDRABHAN &amp; ORS.</u></b></p>
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**ORDER BELOW EXHIBIT 01**

1. By way of present application, applicant has prayed for giving direction to Police Station, Sakri to investigate the matter vide Section 156(3) of the Code of Criminal Procedure or to grant any other relief as deems fit.
2. Perused the application and documents annexed with list Exh.3. Heard learned advocate for the applicant.
3. *In the case of Sayyed Anwar Ahmed Vs. State of Maharashtra, Criminal Writ Petition No.924/2016 and 486/2016, Division Bench of Hon'ble Bombay High Court recently has held that the power under subsection (3) of Section 156 is discretionary. Only because on plain reading of the complaint, a case of commission of cognizable offence is made out, an order of investigation should not be mechanically passed.*
4. It is no more res-integra that if application for giving direction of investigation vide Section 156(3) of Cr.PC. is filed, even in that case instead of sending the application for investigation, court may take the cognizance of the same and proceed further in accordance with Chapter-XV of Cr.PC.
5. The prayer of the applicant is either to send the matter for investigation vide Section 156(3) of Cr.PC. or to grant any other relief. In the present case, taking into consideration the allegations levelled by applicant, this Court is of the view that instead of sending the application for investigation vide Section 156(3) of Cr.PC., it would be just and proper to treat the present application as complaint and keep the same for recording statement of applicant/complainant on oath vide Section 200 of Cr.PC. Hence, the following order.

**ORDER**

1. Prayer of sending the matter for investigation under Section 156(3) of the Code of Criminal Procedure is disallowed.
2. The application be treated as complaint within the meaning of Section 2(d) of the Code of Criminal Procedure.
3. Complaint be kept for recording statement of complainant on oath (verification) as per Section 200 of the Code of Criminal Procedure.
4. Complainant and his advocate to take the note.

Sakri  
Date : 04.09.2024

SD/-  
(Shahzad Parvez)  
Judicial Magistrate, First Class,  
Sakri