

ORDER BELOW EXH.01 in Cri.M.A.No.70/2023

Machindra Vs. Rahul

(Passed on Dt.25.02.2026)

The present complaint is filed by the applicant seeking directions under Section 156(3) of the Code of Criminal Procedure for registration of FIR and investigation against the accused persons.

02. The allegations, in brief, are that accused Nos. 1 to 3, in collusion with accused Nos. 4 and 5, attached to the Minor Irrigation Sub-Division, allegedly prepared false and fabricated documents such as maps of command area, affidavits, consent letters and reports for obtaining irrigation permission in respect of Gat Nos. 132 and 133, though the said lands are allegedly not falling within the command area of Vairagad Storage Tank. It is further alleged that forged signatures of deceased Tukaram Bhimrao Bembde and fabricated witnesses were shown in official records, and on the basis thereof, water permission was granted on 06.01.2023. It is the grievance of the complainant that such permission was used to deprive him and other beneficiaries of lawful irrigation water.

03. The complainant submits that though complaints were made to the Police Station and Superintendent of Police, no FIR has been registered, and therefore, direction under Section 156(3) Cr.P.C. is sought.

04. It is well settled that powers under Section 156(3) Cr.P.C. are discretionary and are not to be exercised mechanically. The Magistrate must apply judicial mind and satisfy himself whether immediate police investigation is warranted.

05. From the record, it appears that accused Nos. 4 and 5 are Government servants and the alleged act of granting irrigation permission was performed in their official capacity while discharging statutory functions.

06. In such circumstances, the provisions of Section 197 Cr.P.C. become relevant. Where an act complained of is reasonably connected with discharge of official duty, prior sanction of the competent Government is necessary before taking cognizance.

07. At this preliminary stage, it cannot be conclusively determined whether the acts alleged were wholly outside the scope of official duty or were performed in excess or misuse of official power. There appears to be a reasonable nexus between the act of granting irrigation permission and the official functions of accused Nos. 4 and 5.

08. Further, the dispute pertains to grant of irrigation permission and alleged irregularities in documentation. The complainant has placed various departmental communications on record, including subsequent cancellation of temporary water permission. The matter is document-based and does not disclose any immediate necessity for registration of FIR without preliminary verification.

09. In view of the involvement of Government servants, the question of sanction under Section 197 Cr.P.C., and the documentary nature of allegations, this Court is of the considered opinion that it would not be appropriate to straightaway direct registration of FIR under Section 156(3) Cr.P.C.

10. Instead, it is necessary to verify whether prima facie ingredients of offences such as forgery, fabrication of record, or criminal conspiracy are disclosed and whether the acts alleged are in excess of official duty so as to attract criminal liability. Hence I pass following order:

ORDER

01. The matter is directed to be proceeded under Section 202 Cr.P.C. for the purpose of conducting limited inquiry.
02. The Officer-in-Charge of the concerned Police Station is directed to conduct a inquiry under Section 202 Cr.P.C. and submit a report within 02 months.

Date: 25.02.2026

Place: Ahmedpur

(M.C.Hasge)

IInd Judicial Magistrate First Class,
Ahmedpur

