

ORDER BELOW EXH.1
(Dt. 19/04/2024)

1. This is an application under 156 (3) of Criminal Procedure Code (Cr.P.C.) seeking direction to the police to register FIR and take cognizance of the offence punishable under Section 406, 420, r/w 34 of the Indian Penal Code (I.P.C.).

2. Perused application alongwith documents on record. Heard Learned Advocate for the applicant at length. It is case of applicant that, in year 2017 he has booked one flat in building constructed by non-applicants and they are supposed to hand over its possession in year 2020. Thereafter, he has paid Rs. 35,00,000/- time to time. However, the non-applicants have not completed construction and possession was not handed over as per agreement. Therefore, in year 2021 he approached to the Maharashtra Real Estate Regulatory Authority, wherein the builder was ordered to pay compensation @ 10% on amount invested by applicant for period of delay. However, the said order was not complied. Thereafter, he approached to the police but they have not taken any action. Hence, present application is filed.

3. Perusal of aforesaid allegations would prima facie reveal that, the dispute is of civil nature and collections of evidence at the hands of police is not required. Moreover, for alleged grievance the applicant has alternate remedy which he has already availed and the non-

applicants were directed to pay compensation. At this juncture it is also significant to note that, the said authority in its order dated 23.09.2021 observed that, the present applicant have already received compensation @ Rs. 7,000/- per month from the builder and said fact was not disclosed by the applicant in said application. This shows that, the applicant has already received compensation from the builder before approaching to the said authority. Even if, the said order is not followed the applicant has alternate legal remedy. It is also pertinent to note that, after filing police complaint the statement of present applicant came to be recorded by police on 15.01.2023, wherein he is stated that, he has already filed complaint before RERA authority and therefore he has no objection to close his complaint. Considering the allegations and aforesaid facts, I do not found that, this is a fit case to direct investigation as contemplated u/s 156(3) of Code of Criminal Procedure for purpose of collection of evidence at the hands of police. However, it would be suffice to take cognizance of offence for making further inquiry in to the matter. Therefore, the complainant is at liberty to proceed under section 200 of Cr.PC. Hence, I proceed to pass following order :-

ORDER

1. The prayer seeking direction under section 156 (3) of Cr.PC. to register F.I.R. for the offence punishable under Section 406, 420, r/w 34 of the Indian Penal Code against the non-applicant is hereby rejected.

3 **Cri. M.A. No. 561/2023**
Ravi Pant
 ..Vs..
M/s. Om Krushcons Joint Venture

2. The applicant is at liberty to proceed under Section 200 of
Cr. P.C. for recording statement of witnesses on next date.

(A. S. Agrawal)
6th Jt. Judicial Magistrate First Class
Vadgaon Maval, Pune

Date: 19/04/2024

4 **Cri. M.A. No. 561/2023**
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CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	G. B. Mitha,
Name of the Court	Shri. A. S. Agrawal, 6 th Jt. CJJD & JMFC, Vadgaon Maval, Pune
Date of Order & Judgment	19/04/2024
Order/Judgment Signed by the PO. On	19/04/2024
Judgment/Order uploaded on	19/04/2024