



Presented on : 07.10.2021
Registered on : 07.10.2021
Decided on : 16.03.2026
Duration : Y M D
04 05 09

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, ALIBAG,
DIST. RAIGAD**

(Presided over by S.D.Bhagat)

Criminal Revision Application No.17/2021

CNR No. MHRG010010132021

Exhibit No.36/

Sou.Kalpana Virbhadra Raut

Age.61 years, Occ. Business and household

At.Thal, Tal.Alibag, Dist.Raigad.

... **Petitioner**

Versus

1. **Shri.Manohar Madhukar Mhatre**
Age.58 years, Occ. Agriculture
At.Tudal-Vaishet, Tal.Alibag, Dist.Raigad.
2. **Shri.Anant Jagannath Gaikar**
Age. 42 yrs, Occ. Business
At & Post. Vave, Tal.Alibag, Dist.Raigad.
3. **Shri.Maheshwar Gopalrao Deshmukh**
Age.60 yrs, Occ. Business
R/o. Opposite Observatory
Alibag, Tal.Alibag, Dist.Raigad.
4. **Sou.Uma Maheshwar Deshmukh**
Age.58 yrs, Occ. Agriculture
R/o. Opposite Observatory
Alibag, Tal.Alibag, Dist.Raigad.

5. **Sou.Kalpana Ashok Raut**
Age.60 years, Occ. household
At.Thal, Tal.Alibag, Dist.Raigad.
6. **Sou.Kalavati Prakash Gharat**
Age.47 years, Occ. household
At.Navedar Kolgaon, post – Sasawane,
Tal.Alibag, Dist.Raigad.
7. **The State of Maharashtra.** ... Respondents

**Criminal Revision Application under
Section 397 of the Code of Criminal
Procedure.**

Appearance :-

Shri.A.Y.Upadhye advocate for the petitioner.
Shri.P.M.Thakur for the respondent No.1 & 6
Shri.A.M.Deshmukh for the respondent Nos.2 to 4
Smt.Smita Dhumal APP for State.

:: J U D G M E N T ::

(Delivered on this 16th day of March, 2026)

Introduction :-

The present revision application is filed by the Revision Applicant (Original Complainant) challenging the order dated 26-08-2021 passed by the learned Judicial Magistrate First Class, Alibag below Exhibit-1 in Criminal Miscellaneous Application No. 67/2021, whereby the learned Magistrate rejected the application filed under Section 156(3) of the Code of Criminal Procedure seeking direction to the police to register and investigate offences punishable under Sections 416, 420, 464, 468, 471 read with

Section 34 of the Indian Penal Code.

02. The revision applicant contends that the impugned order is erroneous, illegal and passed without proper appreciation of the allegations made in the complaint.

03. It is further noted from the record that notice of the present revision application was duly served upon all the respondents. However, Respondent No.5, though served with notice, has neither appeared before this Court nor contested the present revision application. The revision application therefore proceeded in his absence.

Facts of the Case :-

04. The revision applicant is the daughter of Late Madhukar Mhatre and sister of respondent No.1 Manohar Mhatre. According to the revision applicant, certain ancestral land belonging to Late Madhukar Mhatre was acquired for the RCF Chemical Fertilizers Project, and in lieu thereof a plot bearing Survey No.7, Hissa No.1B of village Tudal, Taluka Alibag was allotted in the name of the family.

05. After the death of Madhukar Mhatre on 08-07-1977, it became necessary to record the names of all legal heirs including the present applicant. However, according to the applicant, respondent No.1 Manohar Mhatre got his own name recorded in the revenue records by excluding the name of the applicant.

06. It is further alleged that respondent No.1 fraudulently got executed a release deed bearing registration No. ALB-187/1996, purportedly in his favour.

07. The applicant alleges that the release deed shows the name “Kalpana Ashok Raut”, whereas the actual name of the applicant is Kalpana Virbhadra Raut. According to the applicant, no person by the name of Kalpana Ashok Raut exists and respondent No.1 fraudulently created such document by impersonation and forgery.

08. The applicant claims that she became aware of these facts only in December 2019, when she obtained copies of Mutation Entry Nos. 783 and 831 and the certified copy of the release deed. Thereafter, the applicant approached the police authorities by submitting applications requesting registration of FIR. However, no action was taken by the police.

09. Therefore, the applicant filed Criminal Miscellaneous Application No.67/2021 before the learned Magistrate seeking direction under Section 156(3) Cr.P.C. to order investigation by the police. By the impugned order dated 26-08-2021, the learned Magistrate rejected the application observing that the dispute appears to be civil in nature and that civil litigation regarding the property is already pending. Being aggrieved by the said order, the present revision application is filed.

Submissions of the Revision Applicant :-

10. The learned counsel for the revision applicant submitted that the learned Magistrate failed to appreciate that the complaint clearly discloses offences of cheating, forgery and impersonation.

11. It is contended that merely because a civil dispute is

pending regarding the property, the accused persons cannot escape criminal liability. It is further submitted that the release deed was allegedly executed by impersonating the complainant and therefore the allegations prima facie disclose commission of cognizable offences. According to the applicant, the learned Magistrate failed to apply judicial mind while rejecting the application and the impugned order is therefore liable to be set aside.

Submissions of the Respondents :-

12. The learned counsel for the respondents supported the impugned order and submitted that the dispute essentially pertains to property rights among family members.

13. It is submitted that civil proceedings regarding the same property are already pending before the competent court. According to the respondents, the allegations made in the complaint are essentially of civil nature and therefore the learned Magistrate has rightly refused to invoke powers under Section 156(3) Cr.P.C.

Points for Determination :-

14. After considering the rival submissions and the material placed on record, the following points arise for determination :.

Sr.No.	Points	Findings
1.	Whether the learned Magistrate committed any illegality or impropriety in rejecting the application filed under Section 156(3)	...In the negative.

Cr.P.C.?

2. Whether the impugned order requires interference in the revisional jurisdiction of this Court? ... In the negative.
3. What order ? As per final order.

REASONS

As to Point No.1 :-

Whether the learned Magistrate committed illegality in rejecting the application under Section 156(3) Cr.P.C.?

14. This point requires detailed consideration. Section 156(3) of the Code of Criminal Procedure empowers a Magistrate to direct investigation by the police in respect of cognizable offences. However, it is well settled that such power is discretionary and must be exercised only when the Magistrate finds that the allegations disclose commission of cognizable offences requiring police investigation.

15. In the present case, the allegations made by the revision applicant primarily relate to the claim that her brother fraudulently got executed a release deed in his favour and manipulated the revenue records by recording a different name.

16. However, the record also indicates that civil proceedings relating to the same property are already pending, including Regular Civil Suit No.42/2020 and proceedings before

revenue authorities.

17. The police report placed before the Magistrate also indicates that the dispute between the parties pertains to inheritance and mutation entries in respect of the property left by their father. It is not uncommon that disputes regarding inheritance of ancestral property among family members often involve allegations of manipulation of revenue records or execution of documents. Such disputes are primarily adjudicated by civil courts, which have the jurisdiction to determine questions relating to title, validity of documents and entitlement of legal heirs.

18. In the present matter, the applicant herself has already approached the civil court seeking reliefs regarding the property. Once the civil court is seized of the matter and is competent to examine the validity of the alleged release deed and determine the rights of the parties, the criminal process cannot ordinarily be invoked merely to exert pressure in a civil dispute.

19. It is also relevant to note that the alleged release deed is a registered document executed in the year 1996. The applicant claims to have obtained knowledge of the document only in 2019. The question whether the document was executed by impersonation or whether the name mentioned therein relates to the applicant or some other person involves questions of fact and evidence which are more appropriately adjudicated in civil proceedings.

20. The learned Magistrate has considered the police report and the existence of civil litigation and concluded that the

dispute appears to be civil in nature. The Magistrate has also observed that the allegations do not disclose circumstances warranting direction for police investigation under Section 156(3) Cr.P.C.

21. It is well settled that revisional jurisdiction of this Court is limited. Unless the impugned order suffers from patent illegality, perversity or jurisdictional error, the revisional court should not substitute its own view merely because another view is possible.

22. In the present case, the reasoning given by the learned Magistrate shows application of judicial mind. The conclusion that the matter predominantly involves civil dispute regarding property cannot be said to be arbitrary or perverse. Therefore, this Court finds that the learned Magistrate did not commit any illegality in declining to direct investigation under Section 156(3) Cr.P.C. Accordingly, Point No.1 is answered in the Negative.

As to Point No.2 :-

Whether the impugned order requires interference in revision?

23. In view of the findings recorded on Point No.1, the impugned order does not suffer from illegality, impropriety or jurisdictional error. Hence, interference in revisional jurisdiction is not warranted. Accordingly, Point No.2 is answered in the Negative.

ORDER

1. The Criminal Revision Application No.17/2021 stands dismissed.
2. The order dated 26-08-2021 passed by the learned Judicial Magistrate First Class, Alibag below Exhibit-1 in Criminal Miscellaneous Application No.67/2021 is confirmed.
3. Record and proceedings be sent back to the trial court.

Pronounced in open Court.

Alibag.
Dt.: 16/03/2026

(S.D.Bhagat)
Additional Sessions Judge,
Alibag-Raigad