

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
44TH COURT, ANDHERI, MUMBAI.**

C.C.No.196/SW/2025

Milind Prabhakar Rane

.... Complainant

V/s.

The State of Maharashtra

Through Versova Police Station and others Accused

ORDER BELOW EXH.NO.1

(Passed on 02/01/2026)

Being aggrieved by a refusal on the part of an officer in charge of Police Station Versova, Andheri (W), Mumbai to record the first information in cognizable offence the complainant filed the present complaint inter-alia alleging that the accused persons made forged and fabricated last will and testament of late Prabhakar Waman Rane and thereby illegally misappropriated the estate of the said deceased without having any legitimate right therein. Thus, according to the complainant the accused committed the offence punishable under section 317, 318, 316, 336, 338, 340 r/w 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. Since the present complaint came to be filed against the police officer under section 175 (4) of the Bharatiya Nagarik Suraksha Sanhita, the report containing the facts and circumstances of the incidents from the office superior to the senior inspector of police station Versova and the assertions made by the said public servant are required to be filed on record.

3. It is pertinent to note here that the complainant has also sought the directions to register the FIR against the accused persons. In the case of Omprakash Ambadkar Vs. the State of Maharashtra

(Criminal Appeal No.352 of 2020), the Hon'ble Supreme Court of India held as under:

“ A comparison of section 175 (3) of the Bharatiya Nagarik Suraksha Sanhita with section 156 (3) of the Code of Criminal Procedure indicates the prominent changes that have been introduced by the enactment of BNSS as follows:

- a. First, the requirement of making an application to the Superintendent of Police upon refusal by the Officer in-charge of Police Station to lodge the FIR has been made mandatory, and the applicant making an application under section 175 (3) is required to furnish a copy of the application made to the Superintendent of Police under section 173(4), supported by an affidavit, while making the application to the Magistrate under section 175 (3).*
- b. Secondly, the Magistrate has been empowered to conduct such inquiry as the deems necessary before making an order directing registration of FIR.*
- c. Thirdly, the Magistrate is required to consider the submission of the Officer in-charge of the Police Station as regards the refusal to register an FIR before issuing any directions under section 175 (3).*

4. Having regard to the settled provision of Section 175 (3), the submission of the concerned police officer is required to be taken into consideration while making inquiry. In this regard, I am guided by the ratio laid down by the Hon'ble Apex Court in the case of Om Prakash Ambadkar Vs. State of Maharashtra as noted above. In this citation the Hon'ble Apex Court held as under:

“ Further, by requiring the Magistrate to consider the submissions made by concerned police office before proceeding to issue directions under section 175 (3), BNSS has affixed greater accountability on the police responsible to registering FIRs under section 173. Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his

mind judiciary while considering the both complaint and the submissions of the police officer thereby ensuring that the requirement of passing reasoned order is complied with in a more effective and comprehensive manner.” (Para No.35)

5. In view of the facts and circumstances of the present case on hand and ratio laid down by the Hon’ble Apex Court in the case of Om Prakash Ambadkar *supra* coupled with the settled provisions of Section 175 (3) and (4) of the Bharatiya Nagarik Suraksha Sanhita, I pass the following order:

ORDER

- 1 Call the report from the Officer Superior to the Senior Inspector of Police Station Versova and call the assertion of the Senior Police Inspector, Versova under sub section (4) (a) and (b) of section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
- 2 Issue notice to the Police Station in-charge of the Police Station, Versova, Andheri (W), Mumbai for filing say in this matter.
- 3 The Judicial Clerk of this Court is directed to issue notices to the concerned Police official, Versova Police Station, Andheri (W), Mumbai for filing his/her submission in this regard.

Sd/-

(Sujitkumar C. Tayde)
Judicial Magistrate First Class,
44th Court, Andheri, Mumbai.

DATE: 02/01/2026.