

IN THE COURT OF ADDL.CHIEF JUDICIAL MAGISTRATE
24TH COURT, BORIVALI, MUMBAI.

MISC Criminal Case no. 3140/2024

Neville Kinny

... complainant

v/s.

1. Pawan Ganesh Sanil

2. Shyamili Poojary

.... Accused

ORDER BELOW EXH. 1

Invoking provisions of section 175(3) of BNSS, the complainant has sought for direction to the police station Malwani to register the FIR against the accused persons for the offence punishable u/sec.316 and 318 r/w 3(5) of BNS.

2. Perused record and heard Ld. Counsel Shri. Dinesh R. Shinde for complainant at length. The perusal to the record it reveals that the complaint is duly supported by an affidavit and the complainant had not only visited the police station but also the police commissioner/Deputy Police Commissioner in connection with the alleged crime and when found no remedy, knocked the doors of this court.

3. Carefully scrutiny to the complaint reveals, though the transaction appears to be one of investment, however, the minute analysis to the facts putforth by the complainant transpires that the accused persons had projected themselves as one of the businessmen having involved in financial advisers and financial planning. They offered the complainant to give assured return of 36% p.a. and induced him to give Rs.3 lakhs. In these manner, they received Rs.3 lakhs from the complainant, with their ulterior motive to cheat the complainant. The complainant was not given his money back.

4. The complainant has filed the affidavits of nine other persons namely Edith Norrisca Kinny, Limphia Elizabeth Kinny, Nevilin Damian Kinny, Mickhaila Philomena Neville Kinny, Kenneth John D'Souza, Ruby John D'Souza, Machoi Andrew Santos, Astral Gomes and George Bonfi Kinny. The contents of affidavit reveals, that as per them they were also deceived with about Rs.46 lakhs.

-2-

5. The complainant has relied upon documentary evidence also which includes the screenshot of WhatsApp chats, wherein the accused has shared a text with a promise to pay 3% interest p.m. The complainant further relied upon bank statement of himself and above referred 9 victims to show that amounts were transferred from their accounts to the account of accused.

6 The overall material putforth before me prima-facie reveal that it is not a simplicitor case of investment. The complainant and others have been induced to gain monetary benefits for the accused and wrongful loss to the complainant and other victims. The ingredients of offence punishable u/sec.316 and 318 r/w 3(5) of BNS are made out. Hence, I pass the following order.

ORDER

- 1) The application/complaint is allowed.
- 2) PSO of PS Malwani is directed to register the offence u/sec.316 and 318 r/w 3(5) of BNS against the accused Pawan Ganesh Sanil and Shyamili Poojary residents of address as mentioned in the complaint.
- 3) Compliance report be sent to this court within a week.

sd/-

(K.R.Singhel)

Addl. Chief Judicial Magistrate,
24th Court, Borivali, Mumbai.

Mumbai.
Date :14/08/2026

ASD.