

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1148 OF 2016**

Mubeen Baksh Rahim Saudaghar ... Applicant

Versus

The State of Maharashtra & Ors. ... Respondents

Mr. Pratham Rakesh Jain i/by Mr. Rishi Bhuta for the Applicant.

Ms. Sangita Phad, APP for Respondent-State.

Mr. Prabhat Mankar, P.I., Oshiwara Police Station, Mumbai.

**CORAM : MANISH PITALE AND
MANJUSHA DESHPANDE, JJ.**

DATE : 3rd NOVEMBER 2025

P.C. :

. In this application, we find an appalling set of circumstances coming to the fore.

2. As far back as on 1st October 2016, while granting Rule and Rule on interim relief, a Division Bench of this Court directed that while investigation could continue, charge-sheet shall not be filed against the applicant. This pertains to an FIR bearing No. 323 of 2015 registered as far back as on 2nd August 2015, for offences punishable under Sections 376, 313 and 506 of the Indian Penal Code, 1860 (IPC).

3. The record shows that the applicant failed to supply spare copies for notice being issued to respondent No.3 (original informant and victim). As a consequence, notice could not be served upon the respondent No.3. Repeated chances were given on 18th January 2017 and on 2nd March 2017, for supplying spare copies. By the order dated 2nd March 2017, it was directed that if

the spare copies were not supplied within the time stipulated, the application would stand dismissed for non prosecution, without further reference to the Court. The application indeed was dismissed for non prosecution, as the applicant failed to supply spare copies.

4. Subsequently, an application bearing Criminal Application No. 551 of 2017 was moved in this application for its restoration. By an order dated 21st August 2018, a Division bench of this Court allowed the restoration application on a specific statement made on behalf of the applicant that spare copies would be supplied within three weeks from the date of the order i.e. 21st August 2018.

5. The record further shows that the applicant failed to supply spare copies and this state of affairs continued from the year 2018 onwards.

6. As a consequence, this application stood restored and yet, spare copies have not been supplied till today. The office note dated 4th July 2025 confirms the fact that even till today, the applicant has not supplied spare copies in the context of an order passed as far back as on 1st October 2016, granting Rule in the application.

7. Even today, the learned counsel for the applicant is seeking time and it is sought to be indicated that spare copies would be supplied.

8. We are of the opinion that dismissing this application for such repeated default will only lead to further application for restoration being moved before this Court. Instead, it would be appropriate that interim relief granted earlier is vacated and the application is directed to be taken up for consideration on a further date.

9. This Court is unable to appreciate the approach of the applicant of enjoying interim relief for about a decade in this application and ensuring that notice is not even issued to the respondent No.3 (original informant and victim), thereby demonstrating that the applicant has taken advantage of the indulgence shown by this Court.

10. In view of the above, the interim order dated 1st October 2016 is vacated. The applicant is directed to supply spare copies for service of notice on respondent No.3 within one week from today, failing which the application will be listed under the caption 'for dismissal' on 17th November 2025. If the spare copies are supplied within the aforesaid period of time, the concerned Police Station shall take all necessary steps to serve notice upon respondent No.3. The notice shall be returnable on 17th November 2025.

(MANJUSHA DESHPANDE, J.)

(MANISH PITALE, J.)