



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 605 OF 2024

[Ishan S/o Mithilesh Pathak and anr. **vs.** State of Maharashtra through
Cyber Police Station, Nagpur and anr.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Piyush Shukla, Advocate for the petitioners
Mr. S. A. Ashirgade, APP for the State/respondent no. 1
Mr. G. S. Kidambi, Advocate h/f Mr. I. V. Tambi, Advocate for respondent
no. 2

CORAM: ANIL L. PANSARE AND
RAJ D. WAKODE, JJ.

DATED : 03-11-2025.

Learned counsel for respondent no. 2 seeks time.

2. We have heard learned counsel for the petitioners.

3. The petitioners are aggrieved by the order passed by Judicial Magistrate First Class, Court No. 6, Nagpur directing respondent no. 1 to register First Information Report. Learned counsel for the petitioners has pointed out to us various discrepancies, some of which are as under :-

(1) The application under Section 156(3) of the Code of Criminal Procedure, 1973 was filed by one Mr. Sunil S/o Babu Shinde (respondent no. 2) as power of attorney holder of Stephen S/o Anthony Buhagiar, Director of Esti-Mate Electrical, Melbourne, Australia. He claims to be an employee of the company. However, the complaint is filed as power of attorney holder of one of the Directors. According to the petitioners counsel, he has no locus to file complaint. The complaint, if any, could have been lodged

by the company and in that event, the resolution of Board of Directors, would be mandatory.

(2) The affidavit to the complaint is not in consonance with the decision of the Apex Court in the case of *Priyanka Srivastava and anr. Vs. State of U.P and ors. [(2015) 6 SCC 287]*. In fact in the affidavit, the complainant had mentioned about reply, instead of complaint and further the number of paragraphs is kept blank.

(3) Another discrepancy is that he has stated that the facts mentioned in the complaint are true to his personal knowledge. According to the petitioners counsel, he cannot have personal knowledge of the allegations made in the complaint.

4. The respondent no. 2, by filing reply, shall clarify the aforesaid position.

5. List the petition in the week commencing from 17-11-2025.

JUDGE

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