



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 302 OF 2025

Sunita W/o. Mohan Korde

Age : 48 Years, Occu. : Business,

R/o. Phoenix English Speaking Course,

Gala/Shop Nos.7,8,9, First Floor,

Fame Tapadiya, CIDCO, N-1,

Aurangabad.

.... Petitioner

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, MIDC, CIDCO,
Dist. Aurangabad.

2. The Commissioner,
Commissioner Office,
Chhatrapati Sambhajnagar
(Aurangabad).

.... Respondents

....
Mrs. Sunita Mohan Korde, Present Petitioner, Party-in-person
APP for Respondents-State : Ms. R.P. Gaur
....

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

Dated : 23rd June 2025

PER COURT :-

1. In view of our order dated 18th June 2025, learned
Registrar (Judicial) has given the report. It was in the background

that In-charge 6th Judicial Magistrate First Class, Aurangabad viz. Mr. S.S. Chhallani had made some allegations against the Registry of this Court that the communication was not made promptly. Learned Registrar (Judicial) has stated that, in fact, the communication was made with the concerned Court of the Magistrate through District Court by sending e-mail on 15.04.2025 and the communication was also sent through regular post. Flag 'A' is the copy of e-mail sent on 15.04.2025. In addition to that, even the telephonic call was given by Mr. A.G. Dusane, Assistant Section Officer, Criminal "A" Branch of this Court's Registry to the District Court, which was answered by Mr. Vishnu Khakare, Clerk and Mr. Shobhraj Khaire, Clerk on 02.05.2025 and 03.05.2025, whereby it was communicated by the Assistant Section Officer that the report should be submitted at the earliest. When the report was not given by the concerned Court, a note was taken on the Farad Sheet.

2. A packet containing report was received from the concerned Court on 09.05.2025. In fact, when the report has been given by the concerned Magistrate, he had highlighted certain words/statements in bold text unnecessarily and he states that "The communication was sent by Ordinary post instead by an e-mail, etc." He was not within his limits when he used the word "instead". He cannot even

suggest as to how the communication should be from this Court to his Court. Unnecessarily, even when he was in-charge of the concerned Court, he has used such language. We, therefore, caution him that, henceforth, in any communication, which he would make to the Superiors, he should use proper words and be submissive.

3. In fact, we were concerned with the fact that the concerned Magistrate had directed MIDC CIDCO Police Station, Aurangabad to register an offence and carry out the investigation in the order passed under Section 156(3) of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."), way back on 10.09.2012. It appears that neither the police had carried out the investigation nor the concerned Magistrate, who sent the matter for investigation, had monitored the investigation. It has been informed by the learned Magistrate that the police registered the crime as M-Case No.7 of 2012 and the copy of F.I.R. was forwarded to Learned Judicial Magistrate First Class Court on 24.09.2012. Here, we may not go into the aspect at this stage as to how it should be registered as M-Case. But the legal position on this point is very clear that when such order is passed under Section 156(3) of Cr.P.C. by any Magistrate, then in *Madhu Bala Vs. Suresh Kumar, [AIR 1997 SC 3104]* and later on, in *Suresh Chand Jain Vs. State of Madhya Pradesh and Another,*

[AIR 2001 SC 571], the position of law has been made clear. It has been held in **Suresh Chand Jain (Supra)** that -

"Any Judicial Magistrate, before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the magistrate to direct the police to register an FIR. There is nothing illegal in doing so. After all registration of an FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer-in-charge of the police station as indicated in Section Section 154 of the Code. Even if a magistrate does not say in so many words while directing investigation under Section 156(3) of the Code that an FIR should be registered, it is the duty of the officer-in-charge of the police station to register the FIR regarding the cognizable offence disclosed by the complaint because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter."

4. That means, after the registration of the F.I.R., the police officers would get all the powers of investigation as contemplated under Chapter XII of Cr.P.C. and therefore, there ought not to have been any difference between the F.I.Rs. lodged directly with the police and the F.I.Rs. those are registered in view of the order passed under Section 156(3) of Cr.P.C.

5. While answering to one of our questions to the learned Magistrate as to whether he, i.e. (including his predecessors), had monitored the investigation at any point of time or not, it has been answered that no communication was ever made by the Court of the concerned Magistrate to the police station regarding the progress in the investigation. In fact, in *Sakiri Vasu Vs. State of U.P. and Others, [(2008) 2 SCC 409]*, the Hon'ble Supreme Court, while taking note of the powers of the Magistrate under Section 156(3) of Cr.P.C., has made the observation regarding monitoring of the investigation by the Magistrate, which we have, in fact, already quoted in our order dated 07th April 2025.

6. Under the said circumstance, when there is absolutely no investigation made since the registration of the F.I.R., we direct Police Inspector, MIDC CIDCO Police Station, Aurangabad, to carry out the investigation in respect of the said F.I.R., which is registered as M-Case No.7 of 2012, as contemplated under law. We hope that the said investigation would be expedited and would be taken to its logical end by the police.

7. We also direct the learned Magistrate to adhere to the observations in *Sakiri Vasu (Supra)* and monitoring the investigation

in such matters including this, wherein the investigation has been directed under Section 156(3) of Cr.P.C.

8. While getting the report, the concerned Magistrate has stated that he is due for transfer in Annual General Transfer-2025. We direct the learned Registrar (Judicial) to give the copy of this order to the concerned Magistrate, wherever he has been posted, so that it would be helpful to him in future communications to be made by him with the Superiors.

9. With these observations, we dispose of the Writ Petition.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd