

MHTH250106412023



OMA No.2347/2023
Mamta Tomar V/s.
Nirman Flavours Pvt. Ltd.

ORDER BELOW EXH.1

This is an application under Section 156 (3) of Code of Criminal Procedure seeking direction to the police to register First Information Report of offences punishable under Sections 120-B, 406, 415, 420, 468 read with 34 of the Indian Penal Code, 1860.

Facts of application in brief are as under: -

2. Applicant is proprietor of M/s. Jain Trader and Distributor. Non-applicants are running business in the name of Nirman Flavours Pvt. Ltd. Non-applicant No.1 approached the applicant with proposal of appointing the applicant as super stockist under the brand name King's Dadi. Thereafter, MOU was executed between applicant and non-applicant dt.03/05/2022. Accordingly, applicant invested amount of Rs.4,01,000/- approximate towards purchased of goods/stocks from the said company. However, said company i.e. non-applicant No.1 delivered insufficient goods to the applicant. Thereafter, the applicant repeatedly request to furnish remaining goods/stocks. However, non-applicant No.1 gave false assurance. However, they did not supplied remaining

goods/stocks. Accordingly, the applicant showed displeasure and demanded refund of amount through e-mail dt.19/12/2022. However, said email is neither complied nor replied. Therefore, written complaint filed with Nalasopara Police station. However, Nalasopara Police Station did not take cognizance and directed the applicant to approach the court. Hence, present matter is filed for relief of investigation.

3. Perused application and record. Heard learned advocate for the applicant. The applicant has filed copies of MOU, GST registration certificate, leave and license agreement, copies of online monetary transactions, tax invoice issued by non-applicant No.1, e-mail issued by the applicant to the non-applicant No.1, written complaint issued to Nalasopara Police Station, letter issued to the applicant by Nalasopara Police Station. The learned advocate for the applicant has vehemently argued in support of the application and documents annexed therewith.

4. I have carefully gone through contents of the application, which prima facie discloses that non-applicants have committed offences punishable under sections 120-B, 406, 415, 420, 468 read with 34 of the Indian Penal Code, 1860. Said offences are cognizable in nature. The applicant has made compliance of section 154(1) and (3) of the Code of Criminal procedure. The applicant has also filed affidavit in

support of present application. The applicant has complied all necessary pre-conditions to pass order under Section 156 (3) of the Code of Criminal Procedure. In spite of demand made by the applicant to refund the amount through e-mail, non-applicant did not comply the same nor replied to said e-mail. Therefore, intention of non-applicant is not clean towards the transaction took place between applicant and non-applicant.

5. In view of above discussion, prima-facie it appears that, non-applicants have committed cognizable offences as alleged. However, police authority has not taken any action in pursuant to said report. The applicant has made out, fit case to invoke power under Section 156(3) of the Code of Criminal Procedure. Considering severe allegations, it is necessary to direct police to register the crime and investigate same. Hence, I pass following order.

ORDER

1. Application is allowed.
2. Officer in-charge of Nalasopara Police Station is directed to carry out investigation with regard to averments/allegations made in the application and he shall submit final report as early as possible.
3. Verified Copy of application Exh. 1 be forwarded to Officer in-charge of Nalasopara Police Station along with present order.

4. As such, in present matter concern police station will have to file final report i.e. charge sheet and so there is no need to keep matter pending. Hence, matter is disposed of.

Sd/-

Date: 10/02/2025

(Uday S. Jadhav)
Judicial Magistrate F.C.,
(Court No. 4), Vasai