

ORDER BELOW EXH.1

1. The complainant filed present complaint against the accused no. 1 to 10 for offence punishable under section 420, 406 r/w Section 34 of the Indian Penal Code 1860 with prayer to direct the concern police station to register FIR against accused persons and investigate into the matter. The Complainant submitted that at the instance of accused No. 9 & 10 he invested Rs. 1,20,00,000/- with the accused No. 1. Accused No. 2 to 8 are also involved in same business with the accused No. 1. The complainant also submitted that the accused No. 9 who is involved in business of selling Aurvedic Medicine gained trust of the complainant and insisted him to invest such amount on pretext of making double amount within one year. The complainant further submitted that out of such huge amount, he received only Rs. 35,78,429/- and remaining amount of Rs. 84,21,571/- is still due from accused persons. The accused No. 1 to 9 made convince the complainant that they are big broker in India and they will never deceive him so that complainant had invested such huge amount, however the accused No. 1 to 8 by misappropriating amount deceived him. They have also executed false affidavit before Nashik Police and had agreed to refund amount till 31.03.2023 in equitable installment, however they did not refund amount. The complainant made complaint against them at Loni Police Station and to Superintendent of Police Ahmednagar too, however police official did not act upon so that the complainant had to file present complaint for registering FIR against accused persons.

2. Perused the record. Heard Ld. Advocate for the complainant. Learned Advocate for the complainant Shri. Y. P. Korade argued that the accused No. 1 to 10 in collusion with each other cheated the complainant and misappropriated his amount, it is cognizable offence, police was bound to register FIR, however they denied to do so that it will be appropriate to direct the concerned police station to register FIR and make the investigation in view of section 156 (3) of Code of Criminal Procedure.

3. Perused the documents produced by the complainant on record. Agreements executed between the complainant and accused No. 1 shows that he entered into agreement being a director of Aadishakti Fortune Solution LLP which is share broking company. Relation between the complainant and accused persons is seen to be of broker & customer. It is main grievance of the complainant about non-payment of the outstanding dues by the accused No. 1, however it cannot be overlooked that the accused have paid Rs. 35,78,429/- to the complainant. It is clearly seen that it is transaction based upon contract. Considering all these facts and civil nature of transaction it will not be safe to direct the Police Inspector for registering FIR against the accused No. 1 to 10. Instead of that it will be appropriate to get inquire the case from police in view of section 202 of the Code of Criminal Procedure, if substance is found in complaint. Considering nature of the transaction, I am not of view that prayer of the complainant for registering FIR and investigation u/s 156(3) of the Code of Criminal Procedure should be allowed. Hence, following order is passed.

ORDER

1. The prayer of the complainant as to direction to the police station to register offence against accused persons and investigate accordingly is rejected.
2. The case be put up for verification of the complainant in view of section 200 of the Code of Criminal Procedure 1973.

Date :- 09.01.2024.

Place :- Rahata

(S.V.Khaire)

J.M.F.C, Court no.1, Rahata.