

MHBI160003042024

**M.C.A. No. 23/2024**

Shabbir Vs. Bhagwan

ORDER BELOW EXH. NO. 1

Perused the complaint, affidavit of the complainant and documents filed on record. Heard the learned advocate for the complainant at length.

2. Complainant by way of present complaint prayed for issuing the necessary direction u/s.156(3) of the Cr.P.C. The present complaint is filed u/s.379, 380, 424, 461 r/w.34 of the I.P.C. The learned advocate for the complainant relied on the Judgment of Hon'ble Apex Court in Writ Petition (Criminal) No.68 of 2008- Lalita Kumari Vs. Government of U.P. and others and in Criminal Appeal No.781 of 2012 Mrs. Priyanka Shrivastava and another Vs. State of U.P. and others.

3. It is the contention of the complainant that, the accused with two other persons has committed the theft of the animals of the complainant, Kadba Kutti Machine and Rs.60,000/- of the complainant. It is important to note that, the complainant has not filed the document in relation to the ownership of the said animals. The complainant has filed the letter regarding the vaccination of the said animals, but on perusal of the same it cannot be conclusively determined that the complainant is the owner of the said animals. Along with this the said certificate not given on the letter pad of said hospital. The complainant with the list of document at Sr.No.8 filed one document, but the said document is not clear one and not having any signature, stamp of the said shop. The complainant has also not filed the documents in relation to the 12th english examination of his grandson. Hence, complainant prima-facie failed to file the required document in relation to the same. Hence, in such circumstances the complainant has not made out the

prima-facie case against the accused. Hence, in such circumstances with respect to the above case laws, they are not helpful to the complainant. The complainant has not made out the prima-facie case against the accused for the purpose of investigation u/s.156(3) of the Cr.P.C. Hence, at this juncture, considering the allegation made by the complainant the investigation at the hands of police is not warranted. Hence, the prayer of the complainant for issuing the necessary direction u/s.156(3) of the Cr.P.C. is not justifiable. Hence, I pass following order.

ORDER

- 1] The prayer of the complainant for issuing necessary direction u/s.156(3) of Cr.P.C. is hereby rejected.
- 2] The complaint be kept for the verification of the complainant, if the complainant desires.

Date:- 21/03/2024

(A.T. Mangire)
Judicial Magistrate First Class,
Shirur Kasar.

"I affirm that the contents of this PDF file are word to word as per original Judgment/order".

Sd/-
[P.B. Kusumkar]
Stenographer Grade-3

Dictated on : 21/03/2024
Transcribed on : 21/03/2024
Checked & signed on : 21/03/2024