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MHLA090039762022



**ORDER BELOW EXH-1 in Cri.M.A.No.566/2022**

**[ Vivek S/o Ram Mane**

**Vs.**

**Raghunath @ Pintu S/o Waman Jadhav ]**

The present complaint is filed for seeking direction under section 156(3) of Code of Criminal Procedure against the accused Nos.1 to 6 for the offence punishable under sections 143, 147, 149, 324, 323, 504, 506 of Indian Penal Code.

2. Heard learned Adv.Shri.S.J.Kadam for complainant. He has reiterated the contents of the complaint in his argument. Perused the complaint which is supported by the affidavit. It is the case of the complainant that, accused persons entered to the house of complainant on 03/10/2022 at about 03.30 pm. They started abusing the complainant and when asked the reason for the fight, accused Arun hit on the backside of the head of complainant by using knife. Due to which, complainant started bleeding heavily. Seeing the fight between complainant and the accused persons, mother of complainant started shouting and calling for the help. Thereafter, accused Bhagyashri started beating mother of complainant.

3. Thereafter, complainant went to the Civil Hospital, Udgir and took his treatment. He sent one letter to the Udgir Rural Police Station regarding the alleged act of the accused persons. He again went to the Udgir Rural Police Station on 02/11/2022 to lodge the complaint. Since, Police did not take

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any action against accused persons, he approached Superitendant of Police, Latur.

4. In the present case, complainant filed documents below list **Exh.3**. Complainant has stated that, he has complied the requirement of section 154 (3) of Cr.P.C. However, it is worth to mention here that no record is seen that complainant had gone to Police Staion for lodging his complaint. When a person approaches to the Police Station and tries to lodge complaint against any person he can file his written complaint to the Inward Department of Police Station. If that is done then there is received acknowledgement is given to that person by the concern police officer. No such things has been done in the present case. Therefore, near on oral submission of complainant it cannot be transpired that, he had actually gone to the Police Station.

5. Complainant has filed only one application showing that, complaint was sent through post office to the Superintendent of Police, Latur because Udgir Rural Police Station did not take any action. There is no reasonable reason cited for not taking action on the complaint of complainant by the police. On the other hand, one photocopy of FIR bearing No.457/2022 is filed on record in which accused No.1 Raghunath has lodged complaint against present complainant for the offence punishable u/sec.324, 323, 143, 147, 148, 149, 504 and 506 of IPC. Therefore, prima-facie it appears that, criminal cases are pending between complainant and present accused persons.

6. In the present case, complainant has filed photo copy of O.P.D. form issued by Vilasrao Deshmukh Government Medical Hospital, Latur and photo copy of C.T. scan report along with one photograph of injury. All these documents are issued on 05/10/2022 and alleged incident is of 03/10/2022. There is not explanation for these two days from the complainant in his entire complaint. Therefore, prima facie it does not appear that, these documents are related to the alleged incident.

7. Considering facts and circumstances of the present case, complainant has prima-facie failed to show involvement of all the accused persons in the alleged crime. There is no document on record to show the strict compliance of Section 154 (3) of Cr.P.C. There appears pending criminal dispute between the parties. Hence, in such circumstances, issuing directions under section 156 (3) to the police is not warranted. It is well settled that, when complaint case is filed, the Court has two options either to get the investigation through police under Section 156(3) of the Cr.P.C. or to proceed under Section 200 of the Cr.P.C. It is alternative procedure which the Court 'May' or 'May not' adopt at the stage of consideration of application under Section 156(3) of the Cr.P.C. Remedy under Section 156(3) is discretionary one as the provisions proceeds with word 'May'. The Court is required to pass order under section 156(3) only if, it is satisfied that the information reveals commission of cognizable offence and police aid is necessary for investigation in peculiar facts of case. Therefore, considering the complaint in hand, complainant has not prima facie made out the commission of cognizable offence against alleged accused persons.

8. Considering the facts in hand I hold that, no prima facie case is made out for invocation of provisions of Section 156 (3) of the Cr.P.C. However, complainant is at liberty to adduce evidence and proceed in view of Section 200 of Cr.P.C. In the interest, I pass following order -

**ORDER**

1. Complaint is rejected to the extent of directing investigation under Section 156 (3) of Cr.P.C.
2. Complainant is at liberty to adduce evidence and proceed under Section 200 of Cr.P.C.

**Sd/-**

Udgir

( N.J. Chavan )

Date 08/12/2023.

Judicial Magistrate F.C.

(Court No.3) Udgir.