

Order below Exh.1

Heard on behalf of applicant. The applicant has prayed for directions of investigation *vide* section 156(3) of the Code of Criminal Procedure ( in short Cr.P.C). Affidavit has been filed by applicant as per the direction of the Hon'ble Apex Court in the case of **Priyanka Shrivastav Vs. State of U.P. [(2015) 6 SCC 287]**. The Ld. Adv for applicant submits that non applicants has committed cognizable offence out of alleged offenses punishable under section 417, 418, 420, 423 and read with section 34 of the Indian Penal Code are cognizable offences. Ld. counsel invited attention through all the documents filed by him and argued how and in what manner the non applicants cheated to the applicant.

2] Learned counsel for applicant submitted that applicant has filed complaint with Nashik road Police Station, but police did not take cognizance of the same. But till today no action has been taken against the alleged non-applicants. Therefore, he filed the present application against the alleged non-applicants.

3] I have gone through the record. By way of this application the applicant submitted that cognizable offence has committed by the non-applicants. It needs to be investigated by the police in detail. Therefore, he prayed for direction to police to investigate the offence *vide* section 156(3) of Cr.P.C. Record reflects that information has not been sent to office of S.P through post. Sending of such information in writing to the

Superintendent of Police through post in the manner laid down under section 154(3) of Cr.P.C. and direction under section 156(3) can only be given if compliance of section 154(3) of Cr.P.C. is made by the applicant. In the present case substance of information does not seem to have been sent to the Superintendent of Police in the manner laid down under section 154(3) of Cr.P.C. Thus compliance under section 154(3) of Cr.P.C. is not made.

5] Now, it is necessary to see, whether investigation at the hands of police is required or not. It is mandatory for the police to register FIR under section 154 of Code of Criminal Procedure, when a cognizable offence is made out. However, to invoke power under section 156(3) of the Cr.P.C., it would be necessary that a cognizable offence made out and there is need for investigation at the hand of police. Though applicant has alleged that section 420 of IPC which is a cognizable offence, but it is not a nature that would require investigation to the police machinery. There is no aspect which would require collection of evidence by the police. Mere allegation of cognizable offence is not sufficient but it should contain an element that if investigation under section 156(3) of Cr.P.C. is not carried out it would hamper the case of complainant. After perusal of record, prima facie it appears that, the applicant can adduce evidence in support of allegations for that purpose investigation to police machinery is not warranted.

4] As discussed earlier, this is not a fit case to issue directions u/s. 156(3) of the Cr.P.C. In the circumstances,

application deserves to be rejected. As per prayer mentioned in clause B and C, the applicant is at liberty to proceed further. Hence I pass following order.

**ORDER**

- 1) Prayer of directions u/s. 156(3) of the Cr.P.C stands rejected.
- 2) The applicant is at liberty to proceed the case as per Chapter XV of Code of Criminal Procedure, if any.

(Dictated and pronounced in open court).

Date: 09.12.2022  
Nashik-road.

Sign/-  
**(A.N.Sarak)**  
3<sup>Rd</sup> Jt.Judicial Magistrate First Class,  
Nashik road.