



:: ORDER BELOW EXH.01 IN CRI.M.A.NO.308/2021 ::

1) This is an application filed by applicant for issuing direction under section 156(3) of the Cr.P.C. to police station, Karjat, for investigating the matter against the accused for the offence under sections 427, 506 and 504 r/w. section 34 of the Indian Penal Code.

02) Perused the application and documents filed on record. Heard learned Adv.Arun Nayak. It appears from the record that, allegation raised by the applicant against accused persons are seems to be of Civil nature. However, without availing the civil remedy the applicant filed the present criminal application. In order to proceed under section 156(3) of Cr.P.C. applicant must disclose nexus of offence when such offence is cognizable nature, in that situation the proceeding under section 156(3) of Cr.P.C. can be initiated. The Hon'ble Supreme Court in case of *Tilaknagar Industries Ltd. Vs. State of A.P. 2012 ALL M.R.(Cri.)721(SC)* held that, there is flavor of civil nature. Same can not be agitated in the form of criminal proceeding in this matter, the dispute of the applicant is of civil nature.

03) Besides this, grievance of applicant is that, police did not take any cognizance of his complaint/application, in that contingency he has to approach Superintendent of Police, with written application under Section 154(3) of Cr.P.C. However, no such substance of his application, in writing and by post appears to be sent by the applicant to the Superintendent of Police concerned. Therefore, in absence of mandatory compliance under Section 154(3) of Cr.P.C., applicant is not entitled to seek directions under Section 156(3) of Cr.P.C., for investigation.

04) In case of *Priyanka Srivastava Vs State of U.P. AIR 2015 SC 1758 observed in para no. 26 & 27 the Hon'ble Supreme Court in that,* *“Veracity of the case can also be verified by Learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/latches in initiating criminal prosecution, as are illustrated in Lalita kumari are being filed. That apart, the Ld. Magistrate would also be aware of the delay in lodging of the FIR.”*

05) Relying on aforesaid judgments this court is not inclined to pass order of 156(3) of Cr.P.C. in favour of the applicant. Moreover, it is also necessary to pass an order any alternative relief in favour of the applicant. Hence, I pass the

following order.

:: ORDER ::

1. The prayer of application under Section 156(3) of Cr.P.C. stands rejected.
2. The applicant is called out for verification under Section 200 of Cr.P.C. along with his witnesses, if any on **05.06.2023**.
3. The applicant to take note of this order.

Date : 10/04/2023.

(Sau. Sujata R. Shinde)
Judicial Magistrate First Class,
Karjat.