

ORDER BELOW EXH. 1 IN RCC NO. 386/2016

(Ibrahim Allabaksha Sayyad V/s. Adilshah Ilahi Shaikh & ors.)

1. Perused record and proceeding. The report of concerned police station officer filed in view of order under section 156(3) of the Code of Criminal Procedure passed on 14/11/2016.
2. This is a private complaint instituted otherwise than on police report for offence punishable under sections 384, 452, 504, 506, 511, 144, 145 of the Indian Penal Code. Complainant come with a case that accused Nos. 1 and 2 are the father-in-law and mother-in-law of his son namely Javed. At the time of incident Javed was jobless. Therefore, accused No. 1 being father-in-law obtained loan amount of Rs. 7 Lacs from the bank and started business for Javed. Initially there was a good profit from the said business. Thereafter it went in loss. Javed also failed to repay the loan. Being borrower the concerned bank authority started demanding loan to accused No. 1. Therefore, as accused No. 1 revealed that Javed was unable to pay the loan, all accused started to demand due loan amount to the complainant being father of Javed. It is contention of complainant that, on 04/09/2016 accused Nos. 1 to 5 illegally entered in their house and demanded money by causing extortion on female members of their family by way of threatening them to kill and hence complainant was constrained to file present complaint as the concerned police station officer failed to take effective action against accused despite complaint made by the complainant in the police

station.

3. As complainant complied with the mandatory provisions prescribed under sections 154(1)(3) of the Code of Criminal Procedure and offences were non-bailable, matter was sent for investigation under section 156(3) of the Code of Criminal Procedure. The concern officer of Sanjay Nagar police station, Sangli filed his report on 06/01/2017. I have perused the said report. It reveals that Sanjay Nagar police station CR No. 2/2016 came to be registered against accused for aforesaid offences. The Investigation Officer Shri. J.A. Baig, PHC Belt No. 1835 investigated the matter. During the investigation it was transpired to him that accused Nos. 1 to 5 went to the house of complainant and asked about loan to him. The complainant refused to pay the loan. There was an exchange of words between them. Thereafter they returned back. He also inquired with the son of complainant namely Javed. During his inquiry he also supported the theory of accused. Therefore, Investigation Officer by forwarding report submitted that there was a loan transaction as alleged by the complainant and the son of complainant failed to repay the loan. The complainant has no any concern with the said loan. Therefore, Investigation Officer prayed to further action as per law.

4. After receipt of report under section 156(3) of Code of Criminal Procedure, notice was issued to the complainant. He

appeared. I have heard learned advocate for complainant. He strongly argued that, there are satisfactory grounds and prima facie evidence against accused to issue process against them for offence punishable under sections 384, 452, 504, 506, 511, 144, 145 of Indian Penal Code. Considering the facts and circumstances of the case it is necessary for issue process order that there is a prima facie evidence against accused. On perusal of Exh. 1, prima facie, it is depicted that complainant and accused are relatives of each other. The report under section 156(3) of Code of Criminal Procedure does not support the case of complainant. Under such circumstances only two options are before the Court, either to accept the report and drop the proceeding or order further investigation. In my considered view one last opportunity should be given to the complainant, therefore, further investigation is necessary. Hence, I proceed to pass following order.

ORDER

Complainant is hereby directed to lead his evidence.

Sangli
Date : 25/05/2017

Sd/-xxx
(Smt. P.P. Khape)
Judicial Magistrate First Class
(Court No. 4) Sangli