

CNR NO. MHST140007902024	<b>Cri. M.A. No. 79/ 2024</b> <b>Mohammad Zakir Kureshi</b> <b>V/S</b> <b>Rewan Dilip Godambe</b>
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**ORDER BELOW EXH.No.01**

This application is filed by the complainant under Section 156(3) Cr.P.C. for registration of the F.I.R against the proposed accused person as mentioned in his application and to investigate the case.

2. The case of the complainant is that, there was agreement between the complainant and the accused. According to the said agreement complainant has handed over his vehicle Eicher Pro.2075 DCBCDSVI, having no MH 11 DD 2883 to the accused as of licensee. As per said agreement accused has to pay Rs. 32,850/- to the complainant. The said agreement was notarized on 1<sup>st</sup> November, 2023 by Adv. Mahendra J. Nalawade. But, accused did not pay any amount to the complainant. Accused has handed over to the complainant cheque of bank account of his father of bank of Maharashtra, branch Ghotawade, Tal. Mulashi having no. 093578 of amount Rs. 65,000/- on dated 28/12/2023. Said cheque was returned with name "Funds Insufficient" to the complainant. Accordingly, accused cheated to the complainant. Accused intentionally not paid said amount to the complainant. Complainant filed complaint to the police station Phaltan City. He also, send complaint to the superintendent of Police Satara, but no action taken against the accused. Hence, through this application complainant

prayed to direct police to register the FIR against accused and to investigate the matter.

3. I have given my thoughtful consideration to the contentions of the complainant and have gone through the documents on record. I have also heard the Ld. Advocate for the complainant at length.

4. Perusal of complaint reveals that there are allegations of cheating by the proposed accused. In the light of the facts and circumstances of the present complaint, there is no need to invoke the provisions of Section 156(3)Cr.P.C for issuing direction to register FIR against the proposed accused as:

i. No facts are needed to be unearthed as the same are well within the knowledge of the complainant;

ii. Custodial interrogation of alleged accused persons is not necessary;

iii. The facts of the case is not such that would warrant a detailed and complex investigations to be carried out by the State Agency.

iv. The complainant has liberty to avail other remedies provided to him as per law.

5. In view of ratio laid down by the Hon'ble Bombay High Court in Shri Shyamsunder Radheshyam Agarwal V/s State of Maharashtra Criminal Writ Petition No.4036/2012 dated 08/02/2013 and Sachin Raosaheb Jadhav...Vs...State of Maharashtra Criminal Writ Petition No.1166/2013 dated 24.02.2014 the court has discretion either

to resort to procedure enunciated u/s 156(3) or 200 of Cr.PC. It appears that the present case is not fit for giving directions under section 156(3) of Cr.P.C for want of requirement of investigation. Also, Ld. Adv. for the complainant orally submitted that, in case if the Court comes to the conclusion to reject prayer of u/s 156 (3) Cr.P.C. It may be treated as private complaint. Considering, the above discussion, I pass the following order.

### **ORDER**

1. The prayer of order u/s 156(3) of Cr.P.C is rejected.
2. Put up case for verification of complainant.

Phaltan  
Date: 18/04/2024

(Smt. S.R.Badve)  
Judicial Magistrate F C;  
Court no.5, Phaltan