

MHNS150002282024



ORDER BELOW EXH.01 In Cr.M.A. 56/2024
Rekha Choudhari Vs. Namdeo Choudhri and
ors.

(Passed on 30/07/2024)

This is an application under section 156(3) of Code of Criminal Procedure.

Facts Giving Rise to the Present Application are:

02 The complainant is resident of village Wavarpada, Taluka Surgana, District Nashik. She residing with his husband and two children at above mentioned address. She working as Aganwadi Sevika at Wavarpada, and her husband working at Ashramshala Bubul. On 10/03/2024 at about 8.00 P.M. to 9.00 P.M. all the accused gathered out side of her house and threatened her by using filthy language. All the accused possessed iron rod, wooden sticks. They have compelled to informant to open door. Her husband leave the house form the back door. Thereafter all accused entered into the house of the informant they have also assaulted and threatened informant. They have also removed clothes of the informant. They also snatched the gold Mangalsutra

25

and they also committed theft of Rs. 90,000/-. Also caused mischief to Tractor and four wheeler of the complainant.

03. Complainant called Surgana Police Station at midnight 2.00 A.M., they reached at informant house and they have stopped the accused. On 11/03/2024 all these accused again reach to the informants house and assaulted her with filthy language, they also removed her clothes and threatened to kill her.

04. This complainant lodge online complaint to the Surgana Police Station. However they have not taken action against these accused. She also approached to the Superintendent of Police, Nashik Rular on 20/03/2024 and 27/05/2024, this department also not taken action against these accused, hence complainant constrained to file present application

05 Perused the application, affidavit and documents annexed. Heard **Mr. D.V.Kokate** learned advocate for the applicant.

06 The application reported allegations against the accused no. 1 to 20. According to the applicant, these accused threatened and assaulted her in filthy language also they have misappropriated the money and gold of the applicant. They also tried to remove

her clothes. She filed Online complainant to the Surgana Police Station. It is worth here to mentioned relevant provision of the Code of Criminal Procedure. Section 154(1) “ ***Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.*** So, in view of this provision present complaint appears to made online, here it is pertinent to note that, at the end of the online compliant there are instruction regarding e-complaint first and most important instruction is **this e-complaint will not be treated as FIR**. It is settled law that, before proceeding under Section 156(3) the compliance of the Section 154(1) i.e. first information report and 154(3) are mandatory. Section 154(1) speaks about first information report to the officer in-charge of Police station.

08. In present case she does not filed First Information report to the concerned police station. First information report lodge after inquiry of the e-complaint. In present case she only made e-complaint which is not covered under the purview of the First information Report i.e. under section 154(1)

of the Code of Criminal Procedure. So this complainant does not complied the most important compliance to proceeding under section 156(3). So, she failed to compliance under section 154(1) then how the compliance under Section 154(3) will taken into consideration.

09. It is indeed true that the order directing investigation under section 156(3) of CrPC is a per-cognizance stage. However it is mandatory to compliance under section 154(1) of the code of criminal Procedure. So, in view of the above discussion it would not be appropriate to direct the police machinery under section 156(3), as no compliance by the applicant.

ORDER

The application is disposed off as rejected.

Dated. 30/07/2024


(Ashwini A. Pandit)
Judicial Magistrate First Class
Surgana Camp
(MH03260)