

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Writ Petition No.1023 of 2014

Kailash Marotirao Katvate.

.. Petitioner.

Versus

The State of Maharashtra
And Others.

.. Respondents.

Shri. P.R. Tandale, Advocate, for petitioner.

Smt. R.K. Ladda, Additional Public Prosecutor, for
respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 26th JUNE 2015

ORDER:

1) The petition is filed for giving directions to police to make proper investigation of the matter in FIR No.67/2012 registered in Gandhi Chowk Police Station, Latur. The submissions made by both the sides and the record show that "C" summary came to be filed before the concerned Judicial Magistrate and the Magistrate has made following order on 27-1-2014 on the C Summary report.

"Perused the application and say of complainant. There is no question that court should either allow or reject report U/s 169 of Cr.P.C. Court cannot compel the police to file charge sheet. Hence, report is seen and filed."

2) When crime is registered and report of aforesaid nature is filed Magistrate is expected to either accept the report or reject the report. If the Magistrate forms opinion that report needs to be accepted then the Magistrate is expected to give notice to the original complainant, first informant and he needs to give opportunity to the first informant to have his say. Opportunity needs to be given to the first informant to file his objection before the Magistrate when such report is received. The Magistrate is then to take decision on this objection and only after that the Magistrate can accept the report. The aforesaid order shows that there was no application of mind and no order was made on the report. In view of these circumstances this Court holds that the order cannot sustain in law.

3) So the application is allowed. The order is set aside. The matter is remanded back to the Chief Judicial Magistrate, Latur. He is to give opportunity to the petitioner, to file his say, who is son of the first informant and to file objection in respect of the final report filed by police before the Chief Judicial Magistrate. For following the aforesaid procedure the matter is remanded back. The petition is disposed of in the aforesaid terms.

Sd/-
(T.V. NALAWADE, J.)

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