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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 3 of 2015

Mr. Wilfred Valerian Fernandes,
An Indian Citizen, aged 46 years,
Occupation – Business,
Having permanent residence
at Yu Feng Luo 103-2-601
Yu Hua Dao Tangshan Hebei
0630000, China And an address
in India at Perpetual Resort,
St. Anthony Road, Near Cemetary,
Chembur, Mumbai – 400 071 ... Petitioner.

Vs.

1. The State of Goa
Through Public Prosecutor,
High Court.
2. Superintendent of Police
South Goa,
Margao, Goa – 403722.
3. Dy. Superintendent of Police,
CID, Economic Offences Wing,
Panaji, Goa – 403 001.
4. Police Inspector,
Vasco Police Station,
Station Road, Vasco-Da-Gama,
Goa – 403 802. ... Respondents.

Mr. N. Takbhate, Advocate for the petitioner.

Mr. M. Amonkar, Additional Public Prosecutor for the respondents.

CORAM :- U. V. BAKRE, J.

DATE : 4th February, 2015

ORALORDER :

Heard Mr. Takbhate, learned Counsel for the petitioner and Mr. Amonkar, learned Additional Public Prosecutor for the respondents.

2. By this petition, the petitioner has prayed for a direction to be issued to the respondents to register crime under Sections 403, 406, 409, 415 and 420 read with Section 34 of Indian Penal Code, (I.P.C.) against M/s. Jiwa Mines and Minerals Ltd., Dr. Raghavendra Gowda, Mrs, Mona Gowda nee Arora and other persons, who are part of conspiracy to cheat and defraud the petitioner and the Chinese Vendors Company namely M/s. Loating Dadi Mobile Components Co. Ltd and to investigate the same in accordance with law.

3. It is seen that the petitioner, through his Advocate, has lodged a complaint dated 30/08/2011 with the Superintendent of Police, EOC, Goa against the said persons named in the prayer clause of the petition for offences punishable under Sections 403, 406, 409, 415, 420 read with Section 34 of I.P.C. It is the grievance of the petitioner that no action has been taken by the police in respect of the said complaint and that the police are refusing to

register the crime. By letter dated 26/08/2014, the Police Inspector, Vasco Police Station, informed the petitioner that his complaint is of civil nature and that he should approach proper Court of law for redressal of his grievance. The petitioner has therefore approached this Court.

4. Section 156 of Code of Criminal Procedure (Cr.P.C.) provides as under :

“156. Police officer's power to investigate cognizable case-

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.”

5. In terms of Section 156(3) of Cr.P.C., if no action is taken by the police, the aggrieved complainant can approach the Magistrate

and the Magistrate empowered under Section 190 of CR.P.C. has powers to order investigation. In the present case, the petitioner has not approached the Magistrate. Since there is alternate remedy available to the petitioner to approach the Magistrate, I am not inclined to exercise writ jurisdiction.

6. In the result, the petition is rejected.

U. V. BAKRE, J.

SMA