

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1036 OF 2014

Mukesh Naranbhai Kurlawala .. Applicant

Versus

State of Maharashtra .. Respondent

Ms. KrupaliH. Rajani, Advocate for the applicant

Mr. V.B. Konde-Deshmukh, Addl. PP for the respondent-State.

CORAM:-M.L. TAHALIYANI,J.

DATED : -05/01/2015

P.C.

Heard the learned advocate for the applicant and the learned Addl. PP for the respondent-State.

2 The application of the applicant u/s 156(3) of Cr. P. C., has been rejected by the Magistrate on the ground that the applicant had not followed the provisions of Section 154(3) before moving a Court u/s 156(3) of Cr. P. C. The Magistrate is of the view that the compliance of Section 154(3) is condition

precedent for moving the Court of Magistrate u/s 156(3) of Cr. P.C.

3 The view expressed by the Magistrate is not correct. Normally it is expected that the party aggrieved by refusal on the part of State officer to register FIR for the cognizable offence, would move the superior police officers. It is not mandatory that before moving the Court of Magistrate, the complainant shall exhaust the remedy available u/s 154(3) of Cr. P.C. The view expressed by the Magistrate is not correct. And hence the order passed by the Magistrate on 2nd July, 2014 in OMA No. 1323/2013 is set aside. The Magistrate is directed to hear the complainant / applicant and pass necessary orders in accordance with law, keeping in view, the observations made by this Court with regard to Section 154(3) of Cr. P.C.

4 The application is disposed of.

(JUDGE)

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