

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.469/2016

Rajabhau @ Rajendra Digambar Mane.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondent...

.....

Shri V.D. Sapkal, Advocate for petitioner.
Shri S.P. Deshmukh, APP for respondent nos.1 to 4.

.....

**CORAM: R.M. BORDE &
K.L. WADANE, JJ.**

DATE: 12.04.2016

ORDER :

1] The petitioner is praying for issuance of directions to the respondents to conduct an enquiry / investigation in pursuance to the report submitted by the Special Auditor and the Chief Auditor in regard to the complaint made by the present petitioner alleging mis-appropriation of funds received by the Municipal Council, Tuljapur, for Navaratri festival and to register the offences against officers and office bearers of the Municipal Council,

- 2 -

Tuljapur, in accordance with law. The petitioner earlier presented a detailed complaint making identical imputations against the office bearers and the employees of the said Municipal Council as well as some private individuals and firms, who were awarded the tender work. A request was made to the Magistrate's Court to issue directions for investigation into the complaint at the instance of the Police by taking recourse to provisions of Section 156(3) of the Code of Criminal Procedure. On consideration of the contents of the complaint as well as the verification statement of the petitioner, the learned Magistrate, on recording reasons in detail, turned down the prayer of the petitioner for issuance of directions to investigate the matter u/s 156(3) of the Code of Criminal Procedure. The petitioner was granted liberty to prosecute the complaint presented u/s 190 of the Code of Criminal Procedure if he desires. The complainant / the petitioner herein, however, chose not to proceed with the complaint and withdrew the same.

2] In the instant petition, the petitioner is trying to achieve which he could not secure from the learned Magistrate on lodging a complaint making

- 3 -

identical imputations therein. Since the petitioner has failed to substantiate his allegations before the learned Magistrate, in identical set of facts and against the same persons, a direction to lodge the First Information Report and to commence investigation need not be issued in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The writ petition is devoid of substance and the same stands rejected.

(K.L. WADANE, J.)

(R.M. BORDE, J.)