

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1200 OF 2015

Sindhubai w/o Madhukar Bramhane,
Age : 72 years, Occu. Household,
R/o Indramani Society, Plot No. 27,
Near Anant Park, Wadgaon Sheri,
Pune-14

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Kopargaon Police Station,
Tq. Kopargaon, District Ahmednagar
2. Dinesh s/o Asaram Darunkar,
Age : 49 years, Occu. Business,
R/o Shivaji Road, Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar
3. Dilip s/o Asaram Darunkar,
Age : 54 ;years, Occu. Business,
R/o Shivaji Road, Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar
4. B.A. Dukale,
Age : Major, Occu. Service,
Talathi, Kopargaon, Tq.
Kopargaon, Dist. Ahmednagar
5. V.D. Waghmare,
Age : Major, Occu. Service,
Circle Inspector, Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar
6. H.D. Vidhate,
Age : Major, Occu. Service,
Sub-Registrar, Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar
7. R.G. Magar,
Age : Major, Occu. Service,

Sub-Registrar, Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar

RESPONDENTS

Mr. Swapnil S. Patil, Advocate for the petitioner
Mr. A.R. Kale, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 25/01/2016

ORAL JUDGEMENT :

1. Liberty to file the photocopy of the complaint in R.T.C. No. 267/2011, on which the order on 19th February, 2011 is passed by the learned Judicial Magistrate First Class, Kopargaon, is hereby granted. The same is accepted on record and marked "X" for the purpose of identification.

2. Rule. Rule made returnable forthwith and heard finally.

3. The record would show that while the present petitioner/complainant had filed the complaint for the offences punishable under section 417, 418, 419, 420, 465, 468, 471 read with section 34 of the I.P. code, the learned Judicial Magistrate First Class directed to take action as per the provisions of section 156 (3) of the

Code of Criminal Procedure. It appears that thereafter, the police had filed the report before the learned Judicial Magistrate First Class on 21st June, 2012 that the case is of civil nature. Thereupon, the learned Judicial Magistrate First Class on 28th June, 2012 ordered that the complaint stands disposed of. It was further directed that the Exhibit-1 alongwith documents be sent to the concerned police station for record.

4. Mr. S.S. Patil, learned counsel for the petitioner submits that as per the directions of the learned Judicial Magistrate First Class, the police had registered the crime. Thereafter, the police, upon enquiry, came to the conclusion that no offence is made out and filed a report accordingly in the trial court.

. Mr. Patil submits that it appears from the record that the learned Judicial Magistrate First Class without passing any order of accepting or rejecting the said police report, has directly disposed of the complaint.

5. On going through the record and upon hearing learned counsel for the petitioner, in my view, the

learned Judicial Magistrate First Class ought to have given an opportunity to the present petitioner/complainant and ought to have passed a specific order as to whether the report filed by the Investigating Officer should be accepted or not. In that view of the matter, the order dated 28th June, 2012 passed by the learned Judicial Magistrate First Class, Kopergaon below Exhibit-1 in R.T.C. No. 267/2011 is hereby set aside. The complaint is restored to the file of learned Judicial Magistrate First Class, Kopergaon.

6. The present petitioner/complainant is directed to appear before the learned Judicial Magistrate First Class, Kopergaon on 17th February, 2016 and file an application. The learned Judicial Magistrate First Class thereafter to hear the complainant as per the due procedure of law.

. The present criminal writ petition is accordingly allowed and disposed of. The Rule is made absolute accordingly.

[M.T. JOSHI]
JUDGE