

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 2 OF 2017

MR. EDWARD J. FERNANDES., ... Petitioner
Versus
POLICE INSPECTOR, CALANGUTE POLICE
STATION AND ANR., ... Respondents

Petitioner in person.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the
Respondent No.1.

Coram:- C. V. BHADANG, J.

Date:- 28th February, 2017

ORAL ORDER:

The petitioner, who appears in person is challenging the "oral order of non-accepting or non-filing or non-taking of the application" of the petitioner at Exhibit-B, by the learned Magistrate.

2. The petitioner has filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C., for short), seeking direction to the Calangute police station to register an FIR against the accused, Mr. Oliver Agnelo. According to the petitioner, the accused, Mr. Oliver Agnelo has committed theft of electricity from the flat belonging to Mrs. Maria Jonita Fernandes, who is the cousin of the petitioner and who stays in Germany. According to the petitioner, he is looking after the said flat on behalf of Mrs. Fernandes.

3. The petitioner had sought to file an application before the learned Magistrate, for a direction to the concerned Telecom Company not to delete the phone recording of the conversation, which had allegedly taken place between the petitioner and the accused, Mr. Oliver Agnelo on 27.01.2016. The particulars of the conversation are more particularly set out in para 30 of the complaint, in which the accused, Mr. Oliver Agnelo had allegedly accepted to pay the electricity dues.

4. It is contended on behalf of the petitioner that the application was not taken on record by the learned Magistrate.

5. I have heard the petitioner in person and the learned Additional Public Prosecutor for the respondent no.1.

6. The petitioner does not dispute that the record of such conversation is maintained by the Telecom Company for a maximum period of six months. If that be so, the relief claimed in the application would not be available as on today. The order sheet dated 25.11.2016, on which date according to the petitioner, the application was sought to be filed, only shows that the complainant was present in person and a notice was issued to the P.I., Calangute P.S and the matter was fixed for reply on 06.12.2016. In any event, the alleged conversation is said to be

dated 27.01.2016 and the petitioner claims that the application was sought to be filed on 25.11.2016 and on his own saying, the petitioner claims that record of such conversation is only maintained for six months.

7. For the aforesaid reasons, I do not find that the petition can be favorably entertained. The petition is accordingly dismissed.

C. V. BHADANG, J.

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