

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1821 OF 2016

Dr. Sudhir Vithal Medhekar

....Petitioner

V/s.

Senior Inspector of Police, J.J.
Marg Police Station, Mumbai
and Ors.

....Respondents

Mr. Ranjeet H. Patil, Advocate for the petitioner.

Ms. R.M. Gadhavi, APP for respondent, State.

CORAM :-

SMT. V.K. TAHILRAMANI, &

SANDEEP K. SHINDE, JJ.

DATE :-

2ND AUGUST, 2017.

ORAL ORDER (PER:- SMT. V.K. TAHILRAMANI, J) :

1. Heard learned counsel for the petitioner and learned APP for the State.

2. The prayer of the petitioner is that directions

be issued to the concerned Police Station i.e. J.J. Marg Police Station to register FIR in respect of the complaint of the petitioner and to commence investigation.

3. The Supreme Court in the case of **Aleque Padamsee and Ors. Vs. Union of India and Ors.**¹ has held that if information is given to the police regarding commission of cognizable offence and no action is taken by the police, then proper remedy is to file a complaint before the concerned Magistrate. The Hon'ble Supreme Court has specifically observed that in such a case, a writ petition is not to be entertained as there is remedy available of filing a complaint before the Magistrate. The Supreme Court disposed of the Writ Petition with the following direction:

" If any person is aggrieved by the inaction of the police officials in registering the FIR, the modalities contained in Section 190 read with Section 200 of the Code are to be adopted and observed."

¹ (2007) 6 SCC 171

4. Learned Counsel for the petitioner, submitted that, the police has not taken any action on his complaint which was made in the year 2013. Though, he preferred a representation/reminder in the year 2015, he has not received any reply. He submitted that, in these circumstances, the better course is that directions be issued to the police to register the FIR. We find no merit in this submission because even if a private complaint is filed and if the Magistrate finds some substance in the complaint, he would normally pass an order under Section 156(3) of Cr.P.C. i.e directing police to investigate the matter, hence, the end result would be the same because even if FIR is lodged on directions of this Court, the police would investigate the matter and even if the Magistrate issues directions under Section 156(3) of Cr.P.C., the police would investigate the matter.

5. In view of the decision of the Supreme Court, it would be open to the petitioner to file a private complaint before the concerned Magistrate.

6. Thus, in view of the above facts, the petition is dismissed with liberty to file a private complaint, if so advised.

(SANDEEP K. SHINDE, J)

(SMT. V.K. TAHILRAMANI, J)