

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3038 OF 2016

GOPAL GUNDU SUTAR

)...PETITIONER

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Tejas Hilage, Advocate for the Petitioner.

Mr.S.V.Gavand, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 21st JANUARY 2020

P.C. :

1 The learned counsel for the petitioner is objecting the mode in which the learned Magistrate proceeded to deal with the complaint of cognizable offence lodged by the complainant due to inaction by police in registering the First Information Report.

2 In submission of the learned counsel for the petitioner, instead of proceeding further with the complaint as per provisions

of Section 200 of the Code of Criminal Procedure, the Magistrate ought to have sent the complaint for investigation to police as per provisions of Section 156(3) of the Code of Criminal Procedure.

3 Perused the complaint demonstrating commission of cognizable offence by accused persons. Also perused the impugned order by which the learned trial Magistrate has proceeded with the complaint as per provisions of Section 200 and onwards of the Code of Criminal Procedure. It is not incumbent for the learned trial Magistrate to send the complaint to the police for investigation as per provisions of Section 156(3) of the Code of Criminal Procedure immediately on filing thereof. In the case in hand, the learned trial Magistrate has chosen to record verification statement and to deal with the complaint as per provisions of Section 200 and onwards of Chapter XV of the Code of Criminal Procedure. It cannot be said that the impugned order is either perverse or illegal. It is for the petitioner/complainant to approach the learned trial Magistrate with all evidence in his possession for enabling him to deal with the complaint.

4 The petition, as such, is disposed off with liberty to the petitioner to approach the learned trial Magistrate for enabling him to deal with the complaint as per provisions of Chapter XV of the Code of Criminal Procedure.

(A. M. BADAR, J.)