

(2011) 12 BOM CK 0007

In the Bombay High Court

Case No : Criminal Writ Petition No. 1357 of 2006

Mr. Mukesh R. Gokal

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 154, 156, 157
Penal Code, 1860 (IPC) — Section 409, 420

Citation : (2012) 114 BOMLR 82

Hon'ble Judges : P.D. Kode, J;A.M. Khanwilkar, J

Bench : Division Bench

Advocate : Rajendra Sorankar, for the Appellant; V.B. Konde-Deshmukh, Assistant Public Prosecutor for Respondent Nos. 1 to 4 and Mr. Ganesh Gole A/w Ms. Mallika Ingale for Respondent Nos. 5 and 7 to 10, for the Respondent

Judgement

A.M. Khanwilkar, J.—By this Petition under Article 226 of the Constitution of India, the petitioner prays for direction against the respondents to take cognizance of the complaint made by the petitioner dated 10th June, 2006 and submit appropriate report in that behalf after conducting inquiry. It is further prayed that the investigation of the case be entrusted to third agency other than respondent No.3.

2. Briefly stated, the petitioner asserts that he is dealing in the garment export business and has manufacturing facilities at Chennai. He had business transaction in the year 2000 with one M/s. Lalitha Fashions of Chennai having their business at Lalitha Handlooms, No.25, Shanmugarayan Street, Chennai-600 021. Later on, some difference and disputes arose between the parties. According to the petitioner because of the delay in supply of material, the petitioner had to suffer substantial loss. Notwithstanding that the said firm filed criminal complaint of cheating against the petitioner instead of settling the accounts with the petitioners. The petitioner received summons from the Office of Inspector of Police, General Crime Branch, Egmore, Chennai stating that said

Lalitha Fashions had filed criminal complaint of cheating against the petitioner at Chennai Crime Branch and the petitioner was required to attend the said investigation. It is stated that in response to the said summons, the petitioner attended the Office of the Investigating Officer in the said case at Chennai for the purpose of investigation. In the said investigation, statement of employees of the petitioner's firm as well as financial manager were recorded by the Crime Branch Officer from Chennai. After completion of the investigation and recording of statement and collecting evidence, Crime Branch Officer of Chennai closed the investigation. According to the petitioner, the said complaint filed by Lalitha Fashions was not pressed further by the Crime Branch against the petitioner. That was orally informed by the concerned Officer to the petitioner.

3. However, the petitioner had to face some untoward situation on 3rd May, 2006. The same has been highlighted in the Advocate's letter dated 17th May, 2006, sent to the Senior Inspector of Police, N.M. Joshi Marg Police Station, Commissioner of Police, Mumbai and Joint Commissioner of Police (Crime), Crawford Market, Mumbai. Later on, the petitioner sent his own letter to the Senior Inspector of Police, Commissioner of Police, and Joint Commissioner of Police dated 10th June, 2006 reiterating the same facts. The relevant extract of the said written complaint sent by the petitioner reads thus :

3. To my utter shock and surprise, on 3rd May, 2006 at about 2.30 p.m. Mr. V.N. Narayanan along with six persons entered into my office situated at the above mentioned address and barged into my cabin. I was surrounded by all the said seven persons. Out of the said seven persons, two were uninformed persons claiming to be the police personnel from Andhra Pradesh State and one person introduced himself as Mr. Ramanna Reddy and claimed to be the relative of Mr. Rajshekhar Reddy, the Hon'ble Chief Minister of Andhra Pradesh State. Two more persons were also accompanying him with suspicious feature and one constable from the above No.1's police station i.e. N.M. Joshi Marg Police Station accompanied them as well. All the above mentioned persons, after entering in my cabin started abusing and threatening me and also forcibly tried to remove me from my office under the pretext of non bailable warrant being issued by a local Court at Cuddapah, Andhra Pradesh. I was also threatened with dire consequences if I did not pay Rs.25 lacs to the said persons immediately. It is pertinent to note that the entire incident occurred in my office in presence of my staff and my wife Mrs. Sonal Gokal. At that time, I was not given an opportunity to talk to my lawyer and/or to use my phone. I was then immediately forcibly picked up and arrested from my office under the guise of the F.I.R. being registered at Andhra Pradesh for business transactions of the year 2000 with the said M/s. Lalitha Fashions. I was informed in police custody that there was a non-bailable warrant pending against me and my son Mr. Jai M. Gokal from a Court situated at Cuddapah (Andhra Pradesh State).

4. I was then forcibly taken into custody at N.M. Joshi Marg Police Station by the above mentioned persons with the help of a local constable and while in their

custody I was threatened to be taken to Andhra Pradesh directly from the said local police station. While in custody, the said Mr. V. Narayanan with the help of Mr. Ramanna Reddy extorted pressure upon me either to cough up Rs.25 lacs immediately in cash or else they would take me to Andhra Pradesh with the help of the said Mr. Ramanna Reddy and will put my life in trouble.

5. My mental status was so disturbed that I thought it right to secure my life first as I was not getting any assistance from the local police, who asked me to either accompany those persons to Andhra Pradesh or pay the amount of money as demanded. Under the guise of non-bailable warrant, I was sought to be taken to Andhra Pradesh in police custody and in the process an atmosphere was created in my mind to try and arrange the funds that were demanded from me through my company accountant Mr. Mahesh Phansekar. However, we could only successfully arrange Rs.15 lacs, but Mr. V. Narayanan and Mr. Ramanna Reddy refused to accept the said money and further threatened that they would trouble me if I did not arrange for Rs.25 lacs in cash. After lot of pleading that it was not possible to arrange such a huge amount in a short span of time, the said persons forced me to part with two post dated cheques of Rs.5 lacs each drawn at Central Bank of India, Fountain Branch, Mumbai being cheque Nos. 718204 and 718205 dated 3rd July, 2006 and 14th July, 2006 respectively. The entire incident happened in a very short span by holding gun to my head. I was put under fear of being harassed by perpetrators by taking me to Andhra Pradesh and thus Rs.15 lacs in cash and two post dated cheques were extorted from my possession. Thus, by putting me under fear for my life and being jailed under process of law (doubtful non-bailable warrant), the said persons mis-lead the local police station in getting me arrested and keeping me in police station under the guise of non-bailable warrant, where I was forced by the above mentioned persons to part with Rs.15 lacs in cash and Rs.10 lacs in cheques to save my life.

6. The above incident caused immense mental torture and shock, because of which I fell severely ill and was bed ridden for twelve days and was under medication.

(Emphasis supplied)

4. The petitioner accordingly called upon the Officer In-charge of the local police Station to register FIR against the named persons for offence of kidnapping and extortion of Rs.15,00,000/-in cash and two cheques of Rs. 5,00,000/-each under the guise of legal process and by misleading the local Police Station and misusing the said machinery for that purpose. As no response was received by the petitioner, the petitioner has eventually approached this Court by way of present Writ Petition on 22nd June, 2006.

5. This Petition came to be admitted vide order dated 28th November, 2006. Allegations of inaction of registration of FIR is essentially made against respondent No.3. The respondent No.3 was Senior Inspector of Police of the concerned Police Station at the relevant time. He has filed his personal affidavit

to oppose this Petition, sworn on 15th July, 2006. In the said reply affidavit, it is stated that the allegations made by the petitioner are afterthought. That grievance was made by the petitioner after about twelve days from the date of incident. At no point of time, after the incident in the Police Station on 3rd June, 2006, the petitioner complained about that -either to the respondent No.3 or any other police officer. But, sent written communication dated 10th June, 2006 for the first time. That is a figment of imagination of the petitioner. The respondent No.3 has then stated that the dispute between the petitioner and Lalitha Fashions was purely of a civil nature. Thus, the petitioner wants to convert the civil dispute into criminal case by giving colour as the criminal case. The respondent No.3 has then asserted that the petitioner has suppressed material fact that the police men attached to the Jammalamadugu & Urban Police Station, District Cuddapah, Andhra Pradesh had visited N.M. Joshi Marg Police Station on 3rd May, 2006 and submitted a letter in writing that they wanted help of local police for the purpose of investigation in connection with MECR No.17/2006 under Sections 409, 420 of the Indian Penal Code, which was registered against the petitioner by them on 9th February, 2006. They had represented that an order has been passed by the concerned Court on the basis of which the said request was being made by them. They produced Photostat copy thereof along with relevant document and copy of the FIR. The respondent No.3 has then stated that he had personally called Mr. Bhaskaran, Dy. S.P. attached to Cuddapah Division in order to ascertain the genuineness of the documents so produced before him. After verifying the genuineness of documents, one Police Constable No.0961263 was deputed with the police team arrived from Andhra Pradesh for their help. A Station Diary to that effect has been recorded. That police team went to the Office of the petitioner and after some time, returned back along with the petitioner to the police station for carrying out investigation. They were provided a separate room where only the police officials of the Andhra Pradesh were present to interrogate the petitioner. It is further stated that after the investigation and inquiry was over, the police team returned to their Police Station and the petitioner left the police station. A Station Diary to that effect was contemporaneously recorded. The respondent No.3 has stated that when the interrogation of the petitioner was in progress, no other person other than the police officers of the Andhra Pradesh was present in the said room. On the basis of the above reply, the respondent No.3 has asserted that the written complaint sent by the petitioner is nothing but an afterthought.

6. The petition is resisted by respondent No.7 as well as respondent No. 5 in their affidavits both dated 28th September, 2006. The respondent No.5 has stated that he had never visited Mumbai. He has denied his presence in Mumbai on the relevant date. On merits he has stated that the police team from Andhra Pradesh had proceeded to Mumbai on the basis of the summons issued by the Court of competent jurisdiction and they had returned back after interrogating the petitioner. He has further stated that with regard to the allegations made against respondent Nos.7 to 10, an inquiry was also conducted by the Officer on

Special (OSD), Cuddapah wherein, it was found that the allegations were baseless. He has prayed for dismissal of the Writ Petition.

7. The respondent No.7 who was working as Assistant Sub-Inspector of Police has filed his affidavit not only to deny the allegations made against him but also justified the action of interrogating the petitioner. He has stated that on 3rd May, 2006, he along with the other Police officials of Andhra Pradesh visited N.M. Joshi Marg Police Station at 3.00 p.m. and presented a written requisition to the Station House Officer to provide one local constable to assist in the investigation. He has stated that he visited the Office of the petitioner and informed the petitioner about the purpose of their visit from Andhra Pradesh. He has stated that the petitioner was requested to cooperate in the investigation. He has also stated that the petitioner came to N.M. Joshi Marg Police Station with his wife and office staff. He examined the petitioner in the said Police Station in a separate room provided by the Senior Inspector of the said Police Station. He has further stated about the disclosure made by the petitioner during the interrogation. The petitioner had revealed that the father of the complainant by name Narayana had come to his office on the same morning and settled the matter. The said Narayana received Rs.15 lakhs in cash and two post dated cheques of Rs.5,00,000/-each. The said Narayana gave cash receipt and left Mumbai. This respondent asserts that, he verified the above position and confirmed it with the complainant (Babu) and complainant's father (Narayana). It transpired that Narayana went back to the Police Station at Jammalamadugu on 6th May, 2006 to report to the said Police Station. In substance, the said respondent has denied the allegations made by the petitioner about the involvement in the commission of the alleged offence of the police officials from Andhra Pradesh. The sum and substance of the reply affidavit is that the allegations made by the petitioner are baseless and the Petition deserves to be dismissed.

8. Before analysing the pleadings and the argument of the rival parties we would think it apposite to advert to the settled legal position. The Full Bench of our High Court in the case of Sandeep Rammilan Shukla & Ors. vs. State of Maharashtra & Ors reported in 2008 All. M.R. (Cri.) 3486 has held that Section 154 of the Criminal Procedure Code is a significant provision and has considerable impact on administration of justice as well as have substantial effect on the Society. The Court proceeded to address the question as to whether any kind of discretion is available to the Officer In-charge of a Police Station in terms of Section 154 or he is left with no choice whatever as per the circumstances of the case. After analysing the decisions of the Apex Court on the point and interpreting Section 154 of the Code, the Full Bench has opined that Section 154 in no uncertain terms imposes an absolute duty upon an Officer In-charge of a Police Station to record information of a cognizable offence in prescribed book/books. It then went on to examine the question whether this absolute duty arising from the provisions of Section 154 of the Code by definite implication puts an absolute prohibition on the Police Officer in-charge of a Police Station to do any other act

ancillary thereto or otherwise under the scheme of the Act. It went on to observe that there is no specific provision or legislative command where pre-investigative inquiry is either specifically permitted or prohibited. On this finding it has been held that as a rule and as requirement of law, the Police Officer in-charge of a Police Station hardly has any discretion in registering the case once the information given to him discloses a cognizable offence. It may be useful to advert to the dictum of the Apex Court in the case of Ramesh Kumari Vs. State (N.C.T. of Delhi) and Others, . In that case, the grievance of the appellant was that no case was registered by the Police Officer inspite of the mandate of Section 154 of the Code. It was argued that genuineness or otherwise of the information can only be considered after registration of the case. Genuineness or credibility of the information is not a condition precedent for registration of a case. For considering that submission, the Court in the first place referred to the exposition in State of Haryana and others Vs. Ch. Bhajan Lal and others, , which has held that the Police Officer concerned cannot embark upon an inquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to register a case on the ground that the information is not reliable or credible. It is further held in the said decision that the Officer In-charge of a Police Station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered u/s 156 of the Code to investigate, subject to the proviso to Section 157. The Court adverted to the exposition in paragraphs 31 to 33 in the case of State of Haryana (supra).

9. Keeping in mind the mandate of Section 154 of the Code, we may first analyse the contents of the written complaint sent by the petitioner to the Senior Inspector of Police of the local Police Station as also to Commissioner of Police, Mumbai and the Joint Commissioner of Police (Crime) Mumbai. From the extracted portion of the said written complaint dated 10th June, 2006, in the first place grievance is made about the manner in which the police personnel from Andhra Pradesh entered the office of the petitioner and about the threat administered by them including by resorting to name dropping. It is then alleged that the said persons after entering the cabin of the petitioner started abusing and threatening him and also tried to forcibly remove him from his office under the pretext of non-bailable warrant against him issued by the Court of Cuddapah, Andhra Pradesh. It is then alleged that the petitioner was threatened with dire consequence if he failed to pay Rs.25 lakhs to the said intruders, which incident had happened in the presence of petitioner's staff and his wife. The petitioner was not even given opportunity to get in touch with his Advocate or to use his phone. Instead, he was picked up and taken away to N.M. Joshi Marg Police Station. It is then stated that while in custody, the petitioner was threatened to be taken to Andhra Pradesh directly from the said local Police Station unless he arranged for Rs.25 lakhs in cash immediately. It is alleged that when the petitioner realised that he would not get any assistance from the local police of N.M. Joshi Marg Police Station, he decided to arrange for funds to meet the

demand of the police team who arrived from Andhra Pradesh. Accordingly, he could arrange only Rs.15 lakhs in cash in such a short time. However, the team of police officers from Andhra Pradesh were not willing to accept that part amount and forced the petitioner to part with two post dated cheques of Rs.5 lakhs each by holding gun on his head. The complaint thus discloses case of extortion, threat and pressure inflicted on the petitioner by the police team who had arrived from Andhra Pradesh and also of misleading the Officials of local police station of N.M. Joshi Marg Police Station. Further, a faint grievance is made against the police officials of N.M. Joshi Marg Police Station of not providing assistance to the petitioner. The gravamen of the grievance is against the police team who had arrived from Andhra Pradesh and of misusing their police powers.

10. From the case made out in the written complaint, it clearly reveals that the grievance of the petitioner was one of being threatened and forced to part with huge amount by the police officials who had arrived from Andhra Pradesh by administering threat and under force. Even if the allegation against them of having abducted the petitioner from his office is to be ignored, as the police team from Andhra Pradesh had arrived to investigate the case registered against the petitioner at the instance of Lalitha Fashions on the basis of summons issued by the Court of competent jurisdiction of Andhra Pradesh, their action of compelling the petitioner to part with such huge amount to settle the claim of Lalitha Fashions, by no stretch of imagination, can be said to be legitimate and part of process of investigation of the case. It is no duty of the Investigating Officer, who is investigating the criminal case, to force the accused to return the amount to the complainant or the representative of the complainant. If the Investigating Officer has reason to believe that the accused is in possession of the crime money, can exercise his police powers in accordance with law of attaching the property or freezing the bank account of the accused to secure the crime money. But by no stretch of imagination, the Investigating Officer can force the accused in the pretext of investigation to part with the amount in cash or post dated cheques.

11. Suffice it to observe that the allegations in the written complaint discloses commission of cognizable offence by the police officials and other persons who had arrived from Andhra Pradesh for investigation of the case. Thus, going by the settled legal position, it was mandatory for the Officer in-charge of the Police Station to register the case. Indeed, as the persons named in the written complaint sent by the petitioner were police officials from Andhra Pradesh, it would have been legitimate for the officer in-charge of the N.M. Joshi Marg Police Station to undertake inquiry before registration of the FIR. However, from the reply affidavit filed by the respondent No.3 there is not even a remote suggestion that such attempt was made by the Officer in-charge of N.M. Joshi Marg Police Station. The plea taken in the reply affidavit by the said Officer is that the written complaint was disregarded as there was delay in making such complaint. In that, the incident in question had happened on 3rd May, 2006 but the written complaint was sent after about 12 days from the date of the incident. That by

itself, in our opinion, can be no justification for refusal to register the FIR. The cause for delay in submitting complaint whether just or otherwise could be examined by the Investigating Officer to form opinion about the genuineness or credibility of the information. It is well established position that it is no business of the Police Officer to inquire as to whether the information laid before him is reliable or genuine or otherwise and refuse to register a case on the ground that the information is not reliable or credible (See State of Haryana (supra) paragraph 31). Similarly, it is incomprehensible as to how the respondent No.3 could have ignored the written complaint on the specious ground that the dispute between the parties was purely of a civil nature. Notably, the written complaint sent by the petitioner was not in respect of dispute with Lalitha Fashions but about the conduct and high handed action of the team of the police officials and persons who had arrived from Andhra Pradesh in the guise of investigation of the criminal case filed against the petitioner by said M/s. Lalitha Fashions. In our opinion, therefore, the explanation offered in the reply affidavit cannot be accepted as just and sufficient cause for non-registration of the FIR.

12. We may notice that the respondent No.3 in his reply affidavit has clarified the position that the involvement of police officials from N.M. Joshi Marg Police Station was only to facilitate investigation of the criminal action by the police team who had arrived from Andhra Pradesh. None of the police officers from that Police Station were involved with the investigation and interrogation of the petitioner. As aforesaid, in the written complaint, there is no allegation of overt act of the police officials from State of Maharashtra. The gravamen of allegation is directed against the team of police officials and persons who had arrived from Andhra Pradesh and about their acts of commission and omission.

13. We shall now turn to the reply affidavits by the respondent No.7 and respondent No.5. As regards respondent No.7, he had in the first place denied all the material allegations in the written complaint made by the petitioner. The affidavit discloses circumstances which according to the said respondent would belie the case made out by the petitioner in the written complaint. In the reply affidavit, it is stated that the police team from Andhra Pradesh after landing in Mumbai first reached N.M. Joshi Marg Police Station at 3.00 p.m. From there they proceeded to the Office of the petitioner for the purpose of investigation in CR No.17/2006 of Jammalamudugu (Urban) Police Station and requested the petitioner to cooperate. The petitioner along with his wife and office staff came to N.M. Joshi Marg Police Station. The petitioner was taken in a separate room where he disclosed that the father of the complainant by name Narayana and other persons came to his office and settled the matter. He stated that Narayana was in receipt of Rs.15 lakhs in cash and two post dated cheques for Rs.5 lakhs each. The petitioner also disclosed that the said Narayana gave cash receipt and left Mumbai. The respondent No.7 has stated that he got these facts confirmed and then recorded the submissions of complainant Babu and Narayana (complainant's father) when he returned back to Andhra Pradesh on 6th May, 2006. Thus, the explanation, is that, the entire incident stated in the written

complaint is false and figment of imagination of the petitioner. Whether this version is right or otherwise will be matter for inquiry/investigation. As observed in catena of decisions, there is hardly any option available to the officer in-charge of the police station but to register the FIR u/s 154 of the Code once it discloses commission of a cognizable offence. Indeed, since the named persons in the written complaint were police officials from Andhra Pradesh, it would have been legitimate for the officer in-charge of N.M. Joshi Marg Police Station to conduct preliminary inquiry before registration of FIR. Nowhere in the reply affidavit filed by respondents, in particular respondent No.3, it is stated that such inquiry was conducted by the officer in-charge of N.M. Joshi Marg Police Station. We are conscious of the fact that the respondent No.5 Sub-Divisional Police Officer, Jammalamudugu and Sub-Divisional Officer, Cuddapah of State of Andhra Pradesh, has stated that an inquiry was conducted by the Officer on Special duty (OSD), Cuddapah to inquire into the allegations and it proved to be baseless. That inquiry done by Officer on Special Duty (OSD), Cuddapah will be of no avail. The inquiry was required to be done by the Officer in-charge of the N.M. Joshi Marg Police Station soon after the receipt of the written complaint disclosing commission of cognizable offence by persons named therein. That has not happened in the present case.

14. The argument of the respondents, is that, there is no mention in the written complaint given by the petitioner as to who brought the cash amount and from where and such other details are not disclosed. As is well established, that would be matter for investigation and trial but cannot be just cause to refuse registration of FIR. Even the plea taken in the reply affidavits filed by respondent Nos.5 and 7 respectively that the petitioner had handed over two signed cheques and settled the dispute with the complainant Lalitha Fashions would be a defence available to the accused. It is intriguing to note that the date on which the police team from Andhra Pradesh arrived in Mumbai, on the same day the complainant's father Narayana and other persons also allegedly visited the office of the petitioner for settling the matter. If this stand is questionable, it may inevitably reinforce the case of the petitioner that the police team in the guise of investigation threatened, pressurized and forced the petitioner to part with huge amount on the same day in cash as also two post dated cheques. The amount recovered from the petitioner on the same day admittedly is Rs.25 lakhs. In the written complaint, it is stated that out of the seven persons two were in uniform claiming to be the police personnel from Andhra Pradesh and one person introduced himself as Mr. Ramanna Reddy and claimed to be the relative of then Chief Minister of Andhra Pradesh State. The other two persons who were accompanying them, appeared to be constables.

15. Considering the above, we have no hesitation in taking the view that the written complaint, in particular, the extracted portion thereof in paragraph No.2 above discloses commission of cognizable offence by the named persons. In that view of the matter, as per the provisions of Section 154 of the Code, it was mandatory for the Officer In-charge of N.M. Joshi Marg Police Station to register

the FIR. The justification offered by the Officer In-charge of the N.M. Joshi Marg Police Station for not registering the FIR is untenable. As a result, we would direct the Officer In-charge of N.M. Joshi Marg Police Station to take steps to register the FIR on the basis of written complaint made by the petitioner. As is noticed earlier, since allegations are essentially made against police officials from Andhra Pradesh, it would be open to the Officer in-charge of N.M. Joshi Marg Police Station to conduct preliminary inquiry before naming the said police officials from Andhra Pradesh as accused. But that inquiry will have to be completed expeditiously keeping in mind the dictum of the Full Bench of this Court in Sandeep Rammilan Shukla (supra).

16. Reverting to the relief prayed by the petitioner of issuing direction to respondent No.2 to conduct inquiry and assign investigation to third agency other than respondent No.3, considering the fact that the cause of action for filing this Petition had arisen long back consequent to non-registration of FIR by respondent No.3 in spite of the written complaint sent by the petitioner on 10th June, 2006; and in all probability, the respondent No.3 must have been transferred to some other police station/unit. That relief is worked out. Moreover, it is not the case of the petitioner that all the police officials of N.M. Joshi Marg Police Station were biased against him or hand in-glove with the police team who had arrived from Andhra Pradesh. Thus understood, inquiry/investigation of the complaint made by the petitioner can be undertaken by the police officials attached to N.M. Joshi Marg Police Station. However, as serious allegations are made against the police officials of State of Andhra Pradesh, it would be appropriate that the inquiry/investigation is conducted by a Senior Police Official not below the rank of Assistant Commissioner of Police. Indeed, if the petitioner has any grievance about the manner in which that inquiry/investigation is conducted by the concerned police official, he would be free to pursue appropriate remedy for seeking direction to transfer of investigation to some independent agency. Refusal to grant relief in terms of prayer clause (c) of the present Petition in its entirety therefore will not come in the way of the petitioner to pursue that remedy.

17. In view of the above, the Petition partly succeeds. We direct that the written complaint dated 10th June, 2006 be entrusted to Assistant Commissioner of Police attached to N.M. Joshi Marg Police Station who may straight away cause to register FIR or conduct preliminary inquiry before registering the FIR. The preliminary inquiry, however, shall be completed expeditiously keeping in mind the observations of this Court in Sandeep Rammilan Shukla (supra) and to proceed in the matter in accordance with law. In case, the Assistant Commissioner of Police causes to register the FIR, he shall thereafter take all necessary steps as may be warranted in accordance with law.

18. Petition disposed of on the above terms.