

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 370 OF 2018**

Babubhai Muljibhai Savalia	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

Mr. Shrinivas Bobde a/w Mr. Sandeep Maurya for the Petitioner

Mr. A. D. Kamkhedkar, A.P.P for the Respondent Nos. 1 to 5-State

Mr. A. R. Gole for the Respondent Nos. 6 to 8

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
THURSDAY, 14th JUNE, 2018***

P.C. :

1 The above Petition has been filed seeking reliefs in respect of the communication of the Senior Inspector of Police, Borivli Police Station, wherein it has been mentioned that the grievance made in the complaint of the Petitioner dated 29th October 2015, is civil in nature and therefore, the Petitioner should seek appropriate recourse in a Civil Court. The Petitioner is seeking quashing of the said communication of the Senior Inspector of Police. It seems that the Petitioner has addressed three complaints which are dated 29th October 2015, 1st April 2016 and 2nd June 2016 to the Borivli

Police Station, which has resulted in the conclusion reached by the Police as reflected in the communication of the Senior Inspector of Police, Borivli Police Station.

2 The second relief sought in the above Petition is to direct the Respondent No. 3 to register an FIR on the basis of the said complaints of the Petitioner. In the context of the said relief, a useful reference could be made to the judgment of the Apex Court in ***Sakiri Vasu vs. State of U.P & Ors.***¹. The Apex Court has held in the said judgment that against the non-registration of the FIR by the Police, the aggrieved person can approach the Superintendent of Police under Section 154(3) or can file an application before the Magistrate under Section 156(3). The Apex Court opined that the writ jurisdiction of the High Court could not be invoked for such a relief as an alternative remedy by way of an application under Section 156(3) was available. The said judgment of the Apex Court is a reiteration of the judgment of the Apex Court in ***Aleque Padamsee & Ors. vs. Union of India & Ors.***², wherein the Apex Court has held that recourse to Section 190 read with Section 200 of the Cr. P. C. was required to be adopted. In

1 AIR 2008 SC 907

2 (2007) 6 SCC 171

our view, having regard to the said judgments of the Apex Court in the case of ***Sakiri Vasu (supra)*** and ***Aleque Padamsee (supra)***, the Petitioner would have to be relegated to the remedy by way of an application under Section 156(3) before the appropriate Court and it is, therefore, not necessary for this Court to entertain the above Writ Petition.

3 By relegating the Petitioner to the said remedy, the above Writ Petition is disposed of.

4 Needless to state that if any such application is filed by the Petitioner within four weeks from date, the concerned Court would dispose of the same expeditiously.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.