

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3712 OF 2017

Raju Bhagwat Zankar.] ... Petitioner

Versus

The State of Maharashtra & Ors.] ... Respondents

Mr. S. B. Deore for Petitioner.

Mrs. M. M. Deshmukh, Addl. P. P for State.

Mr. Shirish Gupte, Senior Advocate a/w Mr. Karan Singh Rajput i/b
Mr. I. B. Singh for Respondent No.5.

Mr. Sanjay B. Sadigale, Police Inspector, attached to Anti-Corruption
Bureau, Thane, present.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 23 MARCH, 2018

P. C. :-

1. The above Writ Petition has been filed for the following
substantial relief.

“(b) This Hon'ble Court be pleased to direct the concerned Respondent No.3 to book the Respondent No.5 under various offences punishable under Prevention of Corruption Act 1988 and Indian Penal Code 1860 and register an FIR against Respondent No.5 also to submit a status report of investigation carried out by Respondent No.3 against Respondent No.5 with immediate effect before this Hon'ble Court.”

2. During the course of the hearing of the above Petition, the learned Addl. P. P. Mrs. Deshmukh has submitted a report of the Police Inspector, Anti-Corruption Bureau, Thane, dated 20/03/2018 which sets out the reasons as to why the ACB is not registering the FIR against the Respondent No.5. In view of the situation arising out of the refusal of the ACB to register an FIR under the Prevention of Corruption Act, 1988, the Judgments of the Apex Court in the case of *Lalita Kumari Vs. Government of Uttar Pradesh & Others*¹, as also the Judgment of the Apex Court in the case of *Aleque Padamsee and Others Vs. Union of India and Others*² and the Judgment of the Apex Court in the case of *Sakiri Vasu Vs. State of Uttar Pradesh and Others*³, were in contention before us. It is not necessary for us to refer to in detail the law which has been settled by the aforesaid Judgments. Suffice it would be to state that insofar as the proposition of law that where the police refuse to register an FIR, the party can be relegated to the remedy by way of an Application under Section 156(3) of the Cr. P. C., as laid down in *Aleque Padamsee* and *Sakiri Vasu* (*supra*) cannot be said to be denuded in any manner. In view

1 (2014) 2 Supreme Court Cases 1

2 (2007) 6 Supreme Court Cases 171

3 (2008) 2 Supreme Court Cases 409

thereof, we do not deem it appropriate to exercise our writ jurisdiction under Article 226 of the Constitution of India for granting the relief which is sought by way of the above Writ Petition. However, we relegate the Petitioner to the remedy of filing a complaint under Section 156(3) of the Cr. P. C. before the appropriate Court. Needless to state that the said remedy can be availed of by the Petitioner in accordance with law. Further, needless to state that the complaint, if filed, would be decided on its own merits and in accordance with law.

3. With the observations as aforesaid, the Writ Petition is disposed of.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)