

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1244 OF 2019

RAMESH S/O. CHUDAMAN CHAUDHARI
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for the Petitioner : Shri Joslyn Menzes h/f Shri Paranjape
Prakash S.

APP for the Respondents/ State : Shri R.V. Dasalkar

...

**CORAM : RAVINDRA V. GHUGE
&
R. G. AVACHAT, JJ.**

DATE :- 15th March, 2021

Per Court :-

1. We have briefly heard the learned advocate for the petitioner.

By this petition, the petitioner has put forth prayer clause B, which reads as under :-

“B) By writ of mandamus or any other appropriate writ, order or direction in the like nature, the respondent No.2 may kindly be directed to register an offence against one Madhavrao Tukaram Patil, Chief Engineer, Shirpur Municipal Council, Dist. Dhule for possessing disproportionate property in the name of his wife Asha Madhavrao Patil under the provisions of the Prevention of Corruption Act and for that purpose issue necessary directions.”

2. Prima facie, we do not have material before us on the basis of which, we could assess the merits of prayer clause B.

3. We called upon the learned advocate for the petitioner to convince us as to why the law laid down in *Lalita Kumari vs. Government of U.P. and others, (2014) 2 SCC 1 (a Five Judge Bench)*, should not be made applicable to this case and whether, he is rendered remedy-less despite Section 156(3) of the Code of Criminal Procedure being available to him.

4. The learned advocate for the petitioner submits that the petitioner does have a legal remedy under Section 156(3).

5. In view of the above, this Writ Petition is disposed off.

6. We leave the remedy under Section 156(3) open to the petitioner if so advised. We make it clear that we have not expressed any view or opinion about the merits in the complaint likely to be filed by the petitioner and in the event, any proceeding is initiated under Section 156(3), the same would be considered on its own merits.

7. The amount of Rs.50,000/- (Rupees Fifty Thousand) deposited by the petitioner in this Court on 26.02.2021, shall be returned to him forthwith, with interest, if any.

kps

(R. G. AVACHAT, J.)

(RAVINDRA V. GHUGE, J.)