

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1120 OF 2022**

Sandeep Shyamsundar Vyas And Anr.

...Petitioners

V/s.

State Of Maharashtra And Anr.

...Respondents

Mr. Rajesh G. Singh i/by Rishabh D. Singh for Petitioners.

Mrs. M.H.Mhatre, A.P.P. for the Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 19th DECEMBER 2022.****P.C.:-**

1. By the present Petition, Petitioner is seeking registration of crime on the basis of his complaint against certain persons.

2. Record indicates that, by communication dated 30.12.2021, the Police Officer attached to Khar Police Station, Mumbai has intimated to the Petitioner that, the dispute *inter se* between the parties is of civil nature and the Petitioner may approach civil Court for the same.

3. Even otherwise, Writ Petition under Article 226 of the Constitution of India for lodgement of First Information Report is not maintainable. Petitioner has a substantive alternate remedy available under the provisions of Criminal Procedure Code and without availing such remedy, Petitioner has directly approached this Court under Article 226 of the Constitution of India. Reliance is placed on the following decisions :-

- (i) All India Institute of Medical Science Employee's Union (Regd.) Through its President Vs. Union of India & Ors. reported in (1996) 11 SCC 582;*
- (ii) Gangadhar Janardhan Mhatre Vs. State of Maharashtra & Ors., reported in 2005 SCC (Cri) 404;*
- (iii) Aleque Padamsee & Ors. Vs. Union of India & Ors., reported in (2007) 6 SCC 171 (3 Judges of SC);*
- (iv) Sakiri Vasu Vs. State of Uttar Pradesh & Ors., reported in (2008) 2 SCC 409 and*
- (v) Sunil Jabarchand Modi Vs. State of Maharashtra & Ors. (Cri. W.P. 317/2011 dated 8.12.2011).*
- (vi) Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage & Ors., reported in (2016) 6 SCC 277.*
- (vii) M. Subramaniam & Anr. Vs. S. Janaki & Anr., reported in (2020) 16 SCC 728.*

4. In view of the above, Petitioner seeks leave to withdraw the present Petition with liberty to file a private complaint under the provisions of Code of Criminal Procedure if so advised and as may be permissible under the provisions of law.

5. Petition is disposed off with aforesaid liberty.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)