

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1898 OF 2022**

Vishnu Babasaheb Kapse	Petitioner
Versus	
The State of Maharashtra and ors.	Respondents

Mr. Priyal G. Sarda, Advocate for the Petitioner.
Mr. N. K. Rajpurohit, AGP for the State.

**CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.**

DATE : 18th AUGUST, 2022.

P.C. :

1. The petitioner, resident of Village – Javalgaon No.2, Taluka – Barshi, District – Solapur, initially lodged a report in Vairag Police Station. A copy of the report is placed on record at Exhibit – A, page 11 of the petition. In the said report, the petitioner who is the informant alleged that accused persons named in the report by using unnumbered J.C.B. Tractor are entering upon Gairan land and indulging in act of excavation of mines and minerals. It is specifically stated in the report as this act causes criminal breach of trust, an action be initiated against the accused persons. Now interestingly, as no heed was paid to the report lodged at the police station, the petitioner filed a private complaint in the Court of Magistrate taking recourse to the provisions of Section 156(3) of the Code of Criminal Procedure, 1973. Again interestingly enough, the

application is allowed and the learned Judicial Magistrate First Class, Barshi vide order dated 30th March, 2021 directed the P.I. Vairag Police Station to investigate into the alleged offences against the accused Nos.1 to 4 and, accordingly, disposed of the application. Now, it seems that pursuant to the order of the learned JMFC, Barshi, the offences came to be registered as Crime No.152 of 2021 against the accused persons for the offences punishable under Section 15 of the Environment (Protection) Act, 1986, Sections 379, 452 read with Section 34 of the Indian Penal Code, 1860 and under certain other provisions of Mines and Minerals(Development and Regulation) Act, 1957 and Prevention of Damage to Public Property Act, 1984 and in pursuance of registration of crime, the investigating agency took necessary steps in the process of investigation such as drawing panchanama etc. Now on the basis of this fact, the petitioner had approached the Tahsildar, Barshi. It seems that in view of the report of the PI Vairag Police Station submitted to Tahsildar's office at Barshi, the Tahsildar issued notice to four persons viz. Parmeshwar Ambarushi Dhengle, Arjun Bapu Dhengle, Samadhan Raosaheb Dhengle and Raosaheb Machindra Dhengle. Now the grievance of the petitioner is that in view of the notice issued to the persons concerned, no further steps are taken by the respondent authorities, as such, directions be issued to respondent Nos.2 and 4 viz. Collector, Solapur and Tahsildar, Barshi, Solapur to take immediate action as per communication dated 25th August, 2021.

2. In our opinion, the petitioner is mixing the issues in the present petition. The petitioner himself had approached the competent judicial forum invoking provisions of Section 156(3) of the Code of Criminal Procedure, 1973 and pursuant to the order of the JMFC, Barshi, crime is registered and, on registration of the crime, the investigating agency is set in motion, the investigating agency took necessary steps and submitted report to Tahsildar. Now, the notice issued by the Tahsildar is on the basis of the report submitted by PI Vairag Police Station. In these circumstances, we are not inclined to entertain the petition with principal prayer made in the petition.

3. At this stage, learned counsel for the petitioner prayed for withdrawal of the petition with liberty to take appropriate remedies as available under law. The petition is allowed to be withdrawn with liberty as prayed for and is accordingly disposed of.

(KISHORE C. SANT, J.)

(PRASANNA B. VARALE, J.)