

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.389 OF 2022

Jugalkishor Tikamchand Gilda

..Petitioner

Vs.

The State of Maharashtra
and ors.

..Respondents

Mr.S.N.Suryawanshi, Advocate for petitioner
Mr.A.R.Kale, APP for respondents

CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : JUNE 30, 2023

ORDER :-

Heard.

2. According to learned counsel for the petitioner, the concerned police station officer, without registration of the FIR, made preliminary enquiry into the report made by the petitioner. Same was not permissible in view of the judgment of the Apex Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and ors., (2014)2 SCC 1**. According to learned counsel, it was incumbent upon the police station officer first to register the FIR once the report is made by the concerned person, disclosing cognizable offence. He relies on Section 154 of the Code of Criminal Procedure and the observations of the Apex Court in the case of **Lalitakumari** (supra).

3. There can be no two views over what has been submitted by learned counsel. In the present case, the petitioner is a practicing Advocate. The so called report/complaint made by the petitioner runs in 15 pages. Although the concerned police station officer has not registered the FIR, he made enquiry into the allegations therein and came to the conclusion that no cognizable offence is disclosed and it is a civil transaction.

4. In the given circumstances, in our view, the petitioner has a remedy to seek order under Section 156(3) of the Code of Criminal Procedure. With this liberty, the petition stands disposed of.

5. If the question of limitation is raised before the concerned Court for entertaining the application, if any, filed by the petitioner for order under Section 156(3) of the Code of Criminal Procedure, the time spent in prosecuting present matter shall be excluded.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP