

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

**904 CRIMINAL WRIT PETITION NO.282 OF 2018
WITH
APPLN/926/2018 IN WP/282/2018
WITH
APPLN/965/2018 IN WP/282/2018**

**NARENDRA S/O. BHASKARRAO PATIL AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr.Dhorde Vikram R.

APP for Respondents-State : Mr.M.M.Nerlikar

Advocate for respondent in WP No. 965 of 2018 : Mr. A.P. Shinde

...

**CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ.**

DATE : 03.03.2023.

PER COURT :

1. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking direction against the respondents to register the crime pursuant to the complaint filed on 17.02.2018 against respondent Nos. 3 and 4 and thereafter to transfer further investigation to the State CID, Flying Squad, Pune. The petitioner has also sought direction against respondent Nos. 3 and 4 not to interfere with the day to day affairs of the Trust.

2. We have perused the record and considered the submissions. It appears that there is dispute between two groups of

the Trust viz. Jalgaon Zilla Maratha Vidya Prasarak Sahakari Samaj Ltd.,Jalgaon. The petitioner has filed a complaint against respondent Nos. 3 and 4 and has approached this Court with a grievance that the FIR is not registered and sought declaration against the respondent No. 1 to register the crime.

3. In the case of M. Subramaniam and another Vs. S. Janki and another reported in (2020) 16 SCC 728 the Hon'ble Supreme Court has reiterated the principles laid down in Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277 wherein it is held that, if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) of the Code of Criminal Procedure. It is also observed that if such an application under Section 156(3) of Cr.P.C. is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary recommending change of the investigating officer, so that a proper investigation is done in the matter. It is further held that if the High Courts entertain such Writ Petitions, then they will be

flooded with such writ petitions and will not be able to do any work except dealing with such writ petitions. Hence the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) of the Cr.P.C.

4. In the light of the above, we are not inclined to grant prayer Clause (B) and (C). Furthermore, this Court cannot go into the inter-se dispute between the petitioners and respondent Nos. 3 and the petitioner can seek appropriate remedy before the Charity Commissioner.

5. Hence, we are not inclined to entertain the petition. The petition stands dismissed accordingly.

6. Other applications if any, are disposed of in view of the disposal of the main petition.

(R.M. JOSHI)
JUDGE

(SMT. ANUJA PRABHUDESSAI)
JUDGE