

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1683 OF 2022

Parubai Ganpat Khod and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. S.T. Jadhav, Advocate for petitioners

Mrs. V.N. Patil-Jadhav, A.P.P. for respondents

....

CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.

DATE : 04th JANUARY, 2023

PER COURT :

1. The petitioners herein seek directions against the respondents to register crime against concerned persons.
2. The Hon'ble Supreme Court in *M. Subramaniam and Another Vs. S. Janaki and Another, (2020) 16 SCC 728* has reiterated the principles laid down in *Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage, (2016) 6 SCC 277*, wherein it is held that if a person has a grievance that his F.I.R. 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) Cr.P.C. The

Supreme Court has observed that if such an application under Section 156(3) Cr.P.C. is made and the Magistrate is, prima facie, satisfied, he can direct the F.I.R. 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. The Apex Court has emphasised 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 other 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) Cr.P.C. and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

3. In view of above, we are not inclined to entertain the petition. Criminal writ petition is dismissed with liberty to the petitioners to follow the proper procedure, as stated above.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)