

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

CRIMINAL WRIT PETITION NO.1486 OF 2021

**MADHUKAR LIMBAJI KAKDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. S. S. Thombre, Advocate for the petitioner
Mr. A. R. Kale, APP for the respondent/State

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

DATE : 05th JANUARY, 2023

PER COURT :-

1. The main grievance of the petitioner is that respondent No. 3 has failed to register an offence pursuant to the complaints filed by the petitioner against the Vishwanath Dhanaji Chavan, Manager of the Jalna Taluka Zilla Prishad Shikshak Sahakari Pat Sanstha, Jalna.

2. Learned counsel for the petitioner relying upon in case of ***Lalita Kumari Vs. Govt. of U.P. & Ors.*** reported in **2013 DGLS(SC)902**, states that it is mandatory for police authorities to register the crime once the complaint discloses cognizable offence. It may be mentioned that the petitioner herein has remedy under Section 156(3) of Cr.P.C., when the Police refuses to register the FIR. In the ***M. Subramaniam and another Vs. S. Janaki 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 and ***Sakiri Vasu vs. State of Uttar Pradesh and others., (2008) 2 SCC 409*** 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) Cr.P.C. It is also observed 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) of 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 the light of the principles laid down in the above stated decisions, we are not inclined that to issue any such directions. Petition stands dismissed with leave to the petitioner to avail remedy under Section 156(3) of Cr.P.C.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp