

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

**CRIMINAL WRIT PETITION NO. 1779 OF 2022**

Mangalsing Tukaram Patil

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. B.R. Waramaa, Advocate for petitioner

Mr. M.M. Neralikar, A.P.P. for respondent - State

....

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

**DATE : 09<sup>th</sup> JANUARY, 2023**

**PER COURT :**

1. By this petition the petitioner has sought direction against Respondent No.3 to register crime on the basis of reports dated 20<sup>th</sup> June, 2022 and 26<sup>th</sup> June, 2022.

2. Heard learned counsel for the petitioner. We have perused the record. There appears to be a civil dispute between the petitioner and the person against whom the crime is sought to be registered. The grievance of the petitioner is that despite the injunction order, the defendants in R.C.S. No.118 of 2013 have interfered with his possession. It is stated that the petitioner had lodged a report on 29<sup>th</sup> May, 2021, pursuant to which a crime has already been registered. However, the officer in-charge has failed to register the crime on the subsequent complaints dated 20<sup>th</sup> June, 2022 and 26<sup>th</sup> June, 2022.

3. In *M. Subramaniam and Another Vs. S. Janaki and Another*, (2020) 16 SCC 728, the Hon'ble Supreme Court, upon considering the previous judgments in *Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage*, (2016) 6 SCC 277 and *Sakiri Vasu Vs. State of U.P.*, (2008) 2 SCC 409, has reiterated 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. It is further 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. The Apex Court has emphasised that 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.

4. In view of the above, we are not inclined to entertain the petition. Criminal writ petition stands dismissed, with liberty to the petitioner to avail alternate remedy.

( R.M. JOSHI, J. )

( SMT. ANUJA PRABHUDESSAI, J. )

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