

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.491 OF 2023

Imtiyaz Ahmed Ismailsha Patel

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.Sachindra Shetye with M.H.I.Patel i/by Mr.G.B.Naik, Advocate for Petitioner.

Mr.H.V.Kode with Ms.J.S.Karnik, Advocate for Respondent no.5.

Mr.Rajendra Rathod with Mr.Sohail Ahmed and M.Shaikh, Advocate for Respondent no.4.

Mr.S.S.Hulke, APP, for State.

API Jagtap, MRA Marg Police Station, present.

**CORAM : A.S.GADKARI AND
 PRAKASH D.NAIK, JJ.**

DATE : 20th February 2023

PC :

1. Present Petition is under Article 226 of the Constitution of India for lodgment of crime on the basis of complaint dated 29th September 2022 submitted to M.R.A Marg Police Station, Mumbai, and the Police after conducting preliminary inquiry has informed the Petitioner to approach office of Charity Commissioner, Mumbai for redressal of his grievance.

2. It is the settled position of law and as has been reiterated by the Hon'ble Supreme Court in its decision in the case of *M.Subramaniam & another Vs. S.Janaki & another* reported in (2020)16-SCC-728 that, Petition under Article 226 of the

Constitution of India for lodgment of crime is not maintainable.

3. In view of the above, Mr.Shetye, learned counsel for the Petitioner seeks leave to withdraw present Petition with liberty to file a private complaint if so advised and as may be permissible under the provisions of law. Leave and liberty granted.

4. Mr.Shetye submitted that Petitioner will adopt remedy of filing a complaint as contemplated u/s.156(3) of Cr.P.C. If such complaint is filed within a period of six weeks from today, learned Magistrate dealing with said complaint is requested not to get influenced by the report submitted by Assistant Police Inspector, M.R.A Marg Police Station, Mumbai, dated 29th November 2022 (page 102) and to consider the said complaint as per the provisions of law.

5. Petition is disposed off as withdrawn with aforesaid liberty.

(PRAKASH D. NAIK, J.)

(A.S.GADKARI, J.)

MST