

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1185 OF 2021**

Vivek D. Gupta

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Sushil Upadhyay i/b. Mr. Ashok M. Saraogi for Petitioner.

Mr. Ajay Patil, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 17th February 2023.****P.C. :**

1. It is the grievance of the Petitioner that, though according to him a cognizable offence was made out, the police instead of registering First Information Report have registered Non-Cognizable Offence No.628 of 2020 dated 11th December 2020. That his subsequent complaint dated 12th December 2020 for the same cause of action dated 10th December 2020 has not been taken cognizance by the Police Authorities. It is therefore prayed that, Police may be directed to lodge a crime on the basis of complaint dated 12th December 2020.

2. It is the settled position of law and as has been reiterated by the Hon'ble Supreme Court in the case of *M. Subramaniam & Anr. Vs. S. Janaki & Anr., 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 thereof, Mr.Upadhyay, learned counsel for Petitioner on instructions 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. Petition is disposed of as withdrawn with aforesaid liberty.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]

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