



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.139 OF 2024

Akkabai Hasan Tadavi,
Age: 31 years, Occu: Housewife,
R/o. Chinchpura, Tq. Pachora,
Dist. Jalgaon.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Home Department, Mantralaya,
Mumbai.
2. The Superintendent of Police,
Jalgaon. Dist. Jalgaon.
3. The Police Inspector,
Pachora Police Station,
Dist. Jalgaon.

.. Respondents

...
Mr. G. V. Wani, Advocate for the petitioner.
Mr. G. A. Kulkarni, AGP for the respondents-State.

...

**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

DATE : 15th OCTOBER 2024

ORDER :

. Present petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India to direct respondent Nos.2 and 3 in particular to investigate the complaint filed before them dated 22.11.2022 and 15.09.2023

against Mr. Amol Pawar, Police Sub Inspector.

2. Heard learned Advocate Mr. G. V. Wani for the petitioner. He submits that in fact the complaint was already filed, however, respondent No.3 i.e. the Police Inspector, Pachora Police Station, had not registered the FIR and the complaint was then made to respondent No.2, the Superintendent of Police, Jalgaon, who had also not taken cognizance and, therefore, the FIR is required to be registered. The petitioner had also sought permission to prosecute/sanction against said Mr. Amol Pawar by making an application under Section 197-A of the Code of Criminal Procedure [the State amendment which came into effect by Maharashtra Act 60 of 1981, Section 2 (with effect from 05.10.1981)] by communication dated 15.09.2023, however, no action has been taken on the said application also.

3. Here, when the petitioner seeks registration of the FIR and the investigation thereof, then we are guided by the decisions in ***Sakiri Vasu Vs. State of U.P. and Ors.*, [(2008) 2 SCC 409]**, ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Ors.*, [(2016) 6 SCC 277]** and ***T.C. Thangaraj Vs. V. Engammal and Ors.*, [(2011) 12 SCC 328]**, which have been then referred in ***M. Subramaniam***

and Ors. Vs. S. Janaki and Ors., [(2020) 16 SCC 728], wherein the Hon'ble Supreme Court has held that the petitioner/complainant will have to approach Magistrate under Section 156(3) of the Code of Criminal Procedure and the High Courts should not entertain such petitions under Section 482 of the Code of Criminal Procedure or under Article 226 of the Constitution of India.

4. In view of the said legal position, the writ petition stands disposed of with liberty to the petitioner to approach the Magistrate as provided under the law.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm