



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1216 OF 2024

Shrinivas s/o Haribhau Rathod
Age: 37 Years, Occu: Agri. & Business,
R/o: Takalgavhan Tanda, Pathri, Tq.
Pathri, Dist. Parbhani.

.. Petitioner

Versus

1. The State of Maharashtra
Through its Chief Secretary
Transport Department (Home),
Mantralaya, Mumbai.
2. Transport Commissioner,
Transport Commissioner Officer,
MTNL Building, fountain 2,
5th floor, M. G. Road,
Fort, Mumbai 4001001.
3. Regional Transport Officer,
Regional Transport Office,
Aurangabad.
4. Deputy Regional Transport Officer,
Deputy R.T.O. Office,
Parbhani.
5. Tadkalas Police Station,
Through its Police Inspector,
Taluka and District Parbhani.
6. Superintendent of Police,
S.P. Office, Parbhani.

.. Respondents

...
Mr. A. P. Gaikwad, Advocate for the petitioner.
Mr. S. V. Hange, APP for the respondents – State.
...

**CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.**

DATE : 12 AUGUST, 2024.

ORDER :-

- . Heard the learned Advocate for the petitioner.
2. The present petition has been filed for the following reliefs :-

“B) By issuing Writ of Mandamus or any other Writ order or directions in the like nature, this Hon’ble Court may kindly be pleased to direct the Respondent Nos.1 and 2 to enquiry into matter of Vehicle transfer process and Respondent Nos.1 and 2 may kindly be directed to lodge the F.I.R./complaint with Tadkalas Police Station, Parbhani against Ashwini Swami, Deputy R.T.O., Parbhani, Ganesh Tak, Senior Clerk, R.T.O. Office, Parbhani, Vicky Pathan, R.T.O. Agent, Shriram Finance Company and others for offence alleged in complaint and committed at Sub-R.T.O. Office, Parbhani

OR

By issuing issuing Writ of Mandamus or any other Writ, Order or direction in like nature, this Hon’ble Court may kindly be directed to respondent Nos.5 and 6 to lodge the FIR/complaint with Tadkalas Police Station, Parbhani against Ashwini Swami, Deputy R.T.O., Parbhani, Ganesh Tak, Senior Clerk, R.T.O. Office, Parbhani, Vicky Pathan, R.T.O. Agent, Shriram Finance Company and others for offence alleged in

complaint and committed at Sub-R.T.O. Office, Parbhani”

3. The first and the foremost fact to be noted is that the vehicle in question, which is stated to be owned by the petitioner was taken by him on loan and it was hypothecated. It appears that he had not repaid the loan installments. Now, the petitioner is relying upon some communication by the R.T.O. authorities to the police regarding some misuse and upon that, it is submitted that offence has not been registered. The petitioner cannot take advantage of the said communication for the simple reason that; upon inquiry, the learned Advocate for the petitioner discloses that the petitioner has not even lodged the report regarding theft of his vehicle. Now, it is one of the prayer that the respondent Nos.1 and 2 be directed to lodge the FIR with Tadkalas Police Station, Parbhani. Reliance can be placed on 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 observations have been made, especially

in **Sudhir Tambe** (Supra) it has been observed that “*We are of the opinion 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, we have held that the complainant must avail of his alternate remedy to approach the concerned Magistrate Under Section 156(3), Code of Criminal Procedure, 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.*” In **Sakiri Vasu** (Supra), it has been clearly observed 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) Code of Criminal Procedure.*”

4. Therefore, we are of the opinion that no relief can be granted as prayed in the petition and, therefore, it deserves to be rejected at the threshold. However, we are also taking the same recourse as it was taken in **M. Subramaniam** (Supra). When we are clarifying that this Court has not expressed any opinion on the merits and it is open to the petitioner to approach the

appropriate Court if deemed appropriate and necessary, then the filing of this petition should not be taken as a hurdle. The writ petition is dismissed.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm