



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CRIMINAL WRIT PETITION NO.1333 OF 2024

ZULEKHABI W/O SHAIKH FAYAZ

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mrs. A.N. Ansari, Advocate for applicant

Dr. Kalpalata B. Patil Bharaswadkar, APP for respondent No.1

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

DATE : 22nd AUGUST, 2024

ORDER :

1 Present petition has been filed invoking constitutional powers of this Court under Article 226 of the Constitution of India for directing respondents to register the offence on the basis of complaint of the applicant i.e. petitioner, which she had filed on 28.05.2024.

2 Learned Advocate for the petitioner submits that the incident took place on 17.05.2024 and on the same day the petitioner had gone to register the First Information Report, however, proper cognizance has not been taken, though other First Information Reports appears to have been recorded. Intentionally the police authorities have not registered the First Information Report and, therefore, complaint was filed by the applicant on

28.05.2024. She has also given copy to Superintendent of Police.

3 We are not going into merits of the case or even opining that the complaint which applicant has filed on 28.05.2024 is disclosing any cognizable offence or not. Certainly, we are taking note of the directions by the Hon'ble Supreme Court in **Lalita Kumari vs. Government of Uttar Pradesh and others** [AIR 2014 SC 187] that it is mandatory for the police to register the First Information Report when the facts disclosed commission of cognizable offence. However, we are also guided by **Sakiri Vasu vs. State of Uttar Pradesh and others** [(2008) 2 SCC 409], **Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others** [(2016) 6 SCC 277] and **M. Subramaniam and another vs. S. Janaki and another** [(2020) 16 SCC 728], wherein the Three Judge Bench of the Hon'ble Supreme Court has deprecated the practice of invoking writ jurisdiction of the High Court under Article 226 of the Constitution of India for issuing directions to register First Information Report when the party is supposed to approach the Magistrate under Section 156(3) of the Code of Criminal Procedure. Therefore, the present writ petition cannot be entertained. However, at the end we may observe that if the petitioner intends to approach Magistrate under Section 156(3) of the Code of Criminal Procedure the present writ petition should not be the impediment.

4 In view of above, the writ petition stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)