



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 CRIMINAL WRIT PETITION NO.1396 OF 2024

SACHIN SAMBHAJI JAWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. P. G. Tambade, Advocate for the Petitioner.
Mrs. P. R. Bharaswadkar, APP for Respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 09 DECEMBER 2024

ORDER :

. Present petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India to direct respondents to register FIR against the concerned officer and all the concerned persons including the contractors for issuing two work orders of the same road in Ward No.2 at Majalgaon, District Beed.

2. Heard learned Advocate for the petitioner. Learned Advocate for the petitioner submits that there was proposal for the construction of the road in Ward No.2 at Majalgaon, District Beed. For that purpose respondent No.5 issued work order dated

19.07.2023 in favour of one Chair. Mangal Mss. Ltd., Umapur, Taluka Georai, District Beed. Respondent No.4 vide letter dated 22.11.2023 issued no objection certificate for the construction of the road in the vicinity of Nagar Parishad, Majalgaon. In the said no objection certificate, the name of work in Ward No.2 is shown as Ashok Nagar from house of Akash Rannagat to Bapu Ujgare house, but in the work order instead of Akash Rannagat to Bapu Ujgare's house, it was mentioned as Bashrath Salve's house to Sopansare house. Learned Advocate for the petitioner further submits that respondent No.5 again issued work order dated 06.03.2024 of the road from the house of Akash Rannagat to Bapu Ujagare. In fact both the work orders are of the same road and the office of respondent No.5 without verifying the same has issued work orders. He further submits that as soon as this fact came to the knowledge of the petitioner, he approached respondent No.4 and made a representation dated 06.03.2024 and requested to cancel the said work order. Further, as there was no response by respondent Nos.4 and 5 to the cancellation of the work order, the petitioner approached respondent No.3 by making representation dated 20.03.2024 requested to cancel the work order. He further requested to conduct inquiry in the

matter and register the FIR against the concerned officer and all the concerned persons including the contractors for issuing two work orders of the same road in Ward No.2 at Majalgaon, District Beed. Thereafter, respondent No.3 has given directions to respondent Nos.4 and 5 to take action against the concerned persons. Even after directions from respondent No.3, respondent Nos.4 and 5 have not taken any action.

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.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm