



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1418 OF 2024

Hanuman Anna Garje

....Petitioner

VERSUS

The State of Maharashtra and Ors.

.....Respondents

.....

Mr. K. N. Shermale, Advocate for the Petitioner

Ms. Dr. Kalpalata Patil Bharaswadkar, Addl. PP for Respondents -
State

.....

**CORAM : R. G. AVACHAT &
NEERAJ P. DHOTE, JJ.**

DATE : 07.10.2024

PER COURT :

1. Heard the learned Advocate for the Petitioner. Perused the papers available on record.

2. The Petitioner had taken admission in the M/s Baap Services Private Limited [hereinafter referred to as 'Company' for the sake of brevity] for Bachelor of Computer Application course [B.C.A]. It is the contention of the Petitioner that, the said Company had given rosy promises and assured placement after completion of the course. It is contended that, the Petitioner came to know that the said Company was bogus, since inception, and there was no recognition or affiliation with any University. It is contended that, the said Company had committed a fraud in order to grab money from the poor students and the main purpose was to earn the money by way of cheating. With this contention, the Petitioner has prayed for directions to the Respondents to take action on his complaint, which was made to the Police Machinery i.e. Police Inspector of the concerned Police Station and the Superintendent of Police, Ahmednagar. It is contended that, the said Police

Machinery had taken no cognizance of his complaint and on the other hand, by communication dated 08/07/2023, replied his complaint that the subject pertains to the Department of Education and asked him to raise his grievance before the Block Education Officer, Sangamner.

3. It is vehemently submitted by the learned Advocate for the Petitioner that, in view of the Judgment in **Lalita Kumari Vs. Government of Uttar Pradesh & Others; [2014] 2 SSC 1**, it is mandatory for Police to take cognizance of the report of the complaint if cognizable offence is made out. He relies on Paragraph No.110 of the said Judgment, which reads as under:

“110. Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR”.

He further relies on the Judgment of the Division Bench of this Court passed at Principal Seat on 06/09/2024, in the case of **Tejasvee Abhishek Ghosalkar Vs. The State of Maharashtra and Ors., in Criminal Writ Petition [Stamp] No.7227/2024**, wherein, certain directions are issued to handover the investigation to the Central Bureau of Investigation [CBI].

4. We have gone through the said Judgments relied upon by the learned Advocate for the Petitioner. There is no dispute in respect of the observations made in the aforesaid Judgment of Lalita Kumari Vs. Government of Uttar Pradesh & Others [*Supra*]. Needless to state that, it is the settled position under the law that when no cognizance of complaint is taken by the Police Machinery, there is remedy to approach the concerned Magistrate with the application under Section 156(3) of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'Cr.P.C']. In the case in hand, the Petitioner has efficacious remedy to approach before the concerned Magistrate with complaint under Section 156(3) of Cr.PC. We see no merit in the apprehension expressed by the learned Advocate for the Petitioner that the concerned Police Station would again submit the same report as was submitted to the Petitioner because, the concerned Magistrate would be exercising its powers under the Cr.PC. It is well settled position under the law that the powers under Article 226 should ordinarily not be resorted to when a person has the remedy under Section 156[3] of Cr.PC, if he has a grievance that his FIR is not being registered by the Police. Useful reference in that regard can be made to the Judgment of the Hon'ble Apex Court in **Sakiri Vasu Vs. State of U.P. and Ors.; AIR 2008 SC 907**.

5. In view of the above, we are not inclined to entertain the Petition and the same is dismissed.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

Sameer