

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2828 OF 2024**

Harshbahadur Jaskaransingh	}	
Thakur & Anr.	}	Petitioner
versus		
State of Maharashtra & Anr.	}	Respondents

Mr. Harshbahadur J. Thakur, petitioner no. 2 in-person.

Mr. A. R. Patil, APP for respondents 1 and 2 (State).

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 2nd JULY 2024

P.C.:

1. Heard petitioner no. 1, who appears in-person and the learned APP.
2. This petition has been filed seeking following reliefs: -
"a) That the Hon'ble Court be pleased to pass necessary orders for registering FIR, under section 120B, 420, 406, 463, 466, 468, 471, 472, 473, 469, 474 of the Indian Penal Code, against the accused mention at para no. 3 of this petition; in the interest of justice"
3. Thus, a perusal of the prayer clause reveals that the petitioners have filed this writ petition seeking a direction for registering FIR under certain sections of the Indian Penal Code, 1860 (IPC) against certain alleged accused persons.
4. We have been informed that FIR has been registered by the concerned police station in February 2023, whereas the writ petition was filed in January 2023. Once the FIR has been

registered and the prayer in the writ petition is in respect of issuing a direction for lodging FIR, the petition has been rendered infructuous, which is liable to be dismissed as such, however, the petitioner no. 1 insists that it is only when the petitioners filed the writ petition in January 2023 that the police authorities came to know of pendency of this writ petition and have registered the FIR and accordingly, there has been breach of duty on the part of the police officials, who are responsible for not lodging the FIR and therefore, action should be taken against such responsible persons for committing offences punishable under sections 166, 166A and 167 of IPC.

5. As per the scheme of Criminal Procedure Code, 1973 (CrPC) criminal law machinery is brought in motion by lodging FIR as given in section 154. Section 156(1) of CrPC gives power to the officer in-charge of a police station to investigate cognizable offences even without the order of Magistrate and accordingly, once any written or verbal report is submitted to the officer in-charge of police station, he is expected to register FIR and start investigation if written or verbal report pertains to commission of any cognizable offence.

6. Section 154(1) of CrPC requires that every information relating to commission of cognizable offence, if given to the officer in-charge of police station, has to be reduced in writing by him or under his direction and that is how an FIR into cognizable offence is registered. Section 154(3) of CrPC provides that any person aggrieved by refusal on the part of officer in-charge of the police station to record the information referred to in sub-section (1) of section 154 of CrPC may send such information in writing to the Superintendent of Police

concerned by post, whereupon the Superintendent of Police can either investigate the case himself or direct an investigation to be made by any police officer subordinate to him.

7. Thus, once an information relating to a cognizable offence given under section 154(1) is not registered and thereafter, on an information sent to the Superintendent of Police through Post, again the FIR is not registered under section 154(3) of CrPC, in our opinion, the person concerned can approach the Magistrate concerned under section 156(3) of CrPC, where the Magistrate concerned is empowered to direct investigation of the cognizable offence.

8. In case the FIR sought to be lodged by the petitioners was not registered by the officer in-charge of police station and thereafter by the Superintendent of Police, the remedy available to him was to approach the Magistrate concerned under section 156(3) of CrPC and obtained an order for investigation of the offences complained of. In any case, once the FIR has been registered in February 2023, the prayer made in this writ petition has been rendered infructuous.

9. The prayer made by the petitioners for initiating action against the concerned officers for breach of duty etc. and for initiating criminal action under sections 166, 166A and 167 of IPC is highly misconceived.

10. For the reasons given above, the writ petition is dismissed as having been rendered infructuous.

11. There shall be no order as to costs.