



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 786 OF 2024

SHIVAM NARENDRA MISHRA

VERSUS

**THE STATE OF MAHARASHTRA THR. THE SECRETARY, DEPT. OF HOEM AFFAIRS,
MANTRALAYA, MUMBAI AND OTHERS**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D.H. Sharma, Advocate for the applicant/s
Mr. M.K. Pathan, APP for the respondent Nos.1 to 4/State

CORAM: VINAY JOSHI AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : 03/10/2024.

1. Heard.

2. The petitioner has certain grievances against the alleged fraudster for which he has approached the respondent No.3-Cyber Police Station with a written report dated 17.01.2024. It is petitioner's contention that the police did not accept his report, hence, he has approached the Deputy Commissioner of Police (Cyber) for his redressal, but no cognizance was taken. Therefore, the petitioner seeks direction for registration of First Information Report (FIR) and action against the police for non-registration of FIR by framing necessary guidelines.

3. It is petitioner's case that at the instance of some unknown person, a bank account has been opened in the petitioner's name, however, the petitioner himself has provided Aadhar, PAN and other necessary particulars to the unknown person. Later on, it was revealed that the said unknown person did some fraudulent activities by utilizing his mobile number and email address. Later it was found that the said unknown person by using mobile number and email address had operated the account

which was opened in the petitioner's name and did fraudulent activities. When the petitioner came to know the said act, he rushed to the police with a report, but no cognizance was taken.

4. It reveals that some transactions were made on disputed bank account for which crime was registered in the State of Karnataka of which the petitioner had already received a notice under Section 41A of the CrPC. The petitioner himself has stated that after filing of the report with the police, he has withdrawn the complaint, but alleged that the withdrawal was under coercion and force of the police.

5. The learned APP would submit that the petition is not maintainable as an efficacious remedy is available under Section 156(3) of the Code. In this regard, he has relied on the decision of the Hon'ble Supreme Court of India in the case of *M. Subramaniam and another Vs. S. Janaki and another* (2020) 16 SCC 728, which was followed by this Court in the case of *Sima Firdos Salim Khan Vs. Superintendent, Nagpur Central Prison and others*, (Writ Petition No.133 of 2022) decided on 03.07.2024. The statute itself has provided a remedy to the aggrieved that, if the police did not take cognizance, one has to approach the Magistrate for his redressal. In the wake of such provision, we see no reason to invoke our extraordinary powers.

6. In the circumstances, the petition stands **disposed of**.

7. The petitioner is at liberty to take appropriate steps, as permissible under the law.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)