



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.63 OF 2025

Harshkumar S/o Sahebrao Gaikwad,
Age-56 years, Occu:Social Worker,
R/o-Shiv Nagar, Ghati Road,
Old Jalna, Tq. and Dist-Jalna

...PETITIONER

VERSUS

The State of Maharashtra,
Through the Police Inspector,
Police Station, Kadim Jalna,
Tq. and Dist-Jalna.

...RESPONDENT

...
Mr. Damodhar S. Pagare Advocate for Petitioner.
Mr. A.M. Phule, A.P.P. for Respondent - State.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 28th JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for following reliefs:-

"B] By issuing a writ of mandamus or order or directions in the like nature directing the respondent to immediately register offence (FIR) against the accused persons named in investigation report dated 08.05.2023, in view of the specific orders of Superintendent of Police, Jalna in that behalf.

C] The Sub-Divisional Police Officer, Sub-Division Jalna be directed to ensure that the FIR is registered immediately against the accused persons named in the investigation report dated 08.05.2023 and further to monitor the progress of the case. "

2. Heard learned Advocate for the petitioner and learned APP for respondent – State.

3. Learned Advocate for the petitioner submits that the petitioner is a social worker. The petitioner by letter dated 27.04.2022, has made a complaint to Superintendent of Police, Jalna in respect of ceiling land old Survey No. 14, Gut No.21 admeasuring 2 Hectare and 56 R., situated at Mouza Kharpudi, Taluka and District Jalna, stating therein that the Government is the owner of the said land and the persons namely 1) Narayan Appasaheb Chalge, 2) Shaikh Ibran Sk. Ayub 3) Sk. Ayub Sk. Rahim, in collusion with the corrupt officials and without obtaining permission, prepared bogus sale deed document No.939/2008, dated 04.03.2008 and got it registered at Assistant Sub-Registrar, Registry Office, Old Jalna, Taluka and District Jalna. It was further requested to take action against the responsible persons. The Superintendent of Police, Jalna vide order dated 28.01.2023, ordered the Police Station, Kadim Jalna to take suitable action in the complaint and to submit report. The

Sub-Inspector of Police, Jalna carried out the investigation in the said matter and submitted his final investigation report to the office of Superintendent of Police, Jalna on 08.05.2023. Thereafter, the Superintendent of Police, Jalna had taken cognizance of the said investigation report and ordered the Police Inspector, Kadim Jalna Police station, vide order dated 17.07.2023 to register an offence as per the report submitted by Police Inspector. The copy of said order was also forwarded to the Sub-Divisional Police Officer, Sub-Division, Jalna for information. In spite of the written orders by the Superintendent of Police Jalna, the Police Inspector, Kadim Jalna Police Station, did not take any action and has failed to register the offence/First Information Report against the accused persons named in the investigation report dated 08.05.2023. Time and again the petitioner has taken up the matter with police authorities for registering the offence / First Information Report against the accused persons named in the investigation report, but no action has been taken and no offence is registered by the police authorities against accused persons. Hence, the present Petition.

4. As aforesaid, the directions have been sought to lodge the

First Information Report. However, we would like to consider the decision in *Sakiri Vasu Vs. State of U.P. and Others*, [(2008) 2 SCC 409], which is then again considered in *T.C. Thangaraj Vs. V. Engammal and Others*, [(2011) 12 SCC 328]. In *Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Others*, [(2016) 6 SCC 277], after taking note of the decision in *Sakiri Vasu Vs. State of U.P. and Others* (supra), it has been observed that:-

"If the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. "

5. In *Sakiri Vasu Vs. State of U.P. and Others* (supra), it has been clearly observed that,

"if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court Under Article 226 of the Constitution of India, but to approach the Magistrate concerned Under Section 156(3) Code of Criminal Procedure."

6. Thereafter, in *M. Subramaniam and Others Vs. S. Janaki and Others*, [(2020) 16 SCC 728], the Three Judge Bench of the Hon'ble Supreme Court, after relying upon all the above

decisions, observed that the High Court cannot direct registration of the FIR in such circumstance. The direction which was given by the High Court in this case to register the FIR was quashed and set aside. However, it was also made clear that it would be open to the informant-complainant to approach the Court of the Metropolitan Magistrate if deemed appropriate and necessary. We adopt the same recourse as adopted in ***M. Subramaniam and Others Vs. S. Janaki and Others***, (supra). Mainly taking into consideration the settled legal position in ***Sakiri Vasu Vs. State of U.P. and Others*** (supra), we dismiss the Writ Petition by expressing that we have not dealt with the merits of the case and whether the petitioner has disclosed any criminal offence or not. We grant liberty to the petitioner to approach the learned Magistrate under Section 156(3) of the Code of Criminal Procedure and if such application is filed, then the concerned Magistrate to deal with it as per the provisions of law.

7. With the above observations, the Writ Petition stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE