



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

53 CRIMINAL WRIT PETITION NO.178 OF 2020

M/s Shubhangi Constructions,
Through it's GPA Holder
Ashok Dhondiba Damle,
Age 43 yrs., Occ. Business & Service,
R/o Ganpati Krupa, Plot No.94,
Galli No.2, New Hanuman Nagar,
Near N-4, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through the Police Inspector,
Police Station, City Chowk,
Aurangabad, Tq. & Dist. Aurangabad.
- 2 The Commissioner of Police,
Office of Police Commissioner,
Dr. Babasaheb Ambedkar Marg,
Mill Corner, Aurangabad,
Tq. & Dist. Aurangabad.
- 3 Sartajsingh Arjunsingh Chahal,
Age Major, Occ. Agri.,
R/o Plot No.8, MHADA Colony,
Near house of former Mayor
Smt. Kalatai Oza, Garkheda,
Aurangabad, Tq. & Dist. Aurangabad.
- 4 Omprakash Bakoriya,
Age Major, Occ. Service,
R/o Directorate of Sports and Yough
Affairs, Bund Garden, Pune.

- 5 Ashok Bhavani Padme,
Age Major, Occ. Service,
R/o Plot No.15,
Nyayalayeen Housing,
N-8, CIDCO, Aurangabad,
Tq. & Dist. Aurangabad.
- 6 Narayan Pandurang Giri,
Age Major, Occ. Service,
R/o Plot No.32, C-Sector,
N-4, in front of MIT Hospital,
CIDCO, Aurangabad.

... **Respondents**

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Mr. Amit S. Deshpande, Advocate for petitioner

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 and 2

Mr. Jay Veer, Advocate h/f Mrs. Anjali Dube, Advocate for respondent No.3

Mr. Aditya Lokhande, Advocate h/f Mr. S.S. Tope, Advocate for respondent
No.4

Mr. A.P. Nahar, Advocate h/f Mr. A.P. Bhandari, Advocate for respondent Nos.5
and 6

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 25th SEPTEMBER, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Heard learned Advocate for petitioner. Present petition has been

filed for following relief -

“(B) That, the respondent No.1 and 2 may kindly be directed to lodge the First Information Report in view of complaint filed by the petitioner dated 03.12.2019 and to take action against the private respondents according to the law.”

2 It is stated that the complaint was made to the appropriate authority on 03.12.2019, however, no cognizance has been taken.

3 We would like to rely on the decision in *Sakiri Vasu Vs. State of Uttar Pradesh and others, 2008 (2) SCC 409*, wherein it has been observed that -

“25. we have elaborated on the above matter because we often find that when someone has a grievance that the First Information Report has not been registered at a police station and/or an appropriate investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, firstly under Section 154(3) and Section 36 Cr.P.C. before the concerned police officers and if that is of no avail, by approaching a Magistrate concerned under Section 156(3).

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under

Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies ?”

4 A decision in **Sakiri Vasu** (supra) was then relied in case of **T.C. Thangaraj vs. V. Engammal & others** [2011 (12) SCC 328], **Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others** [2016 (6) SCC 227] and **M. Subramaniam and others vs. S. Janaki** [2020 (16) SCC 728]. Therefore, in view of the specific observations by the Hon’ble Supreme Court, we do not take this to be a fit case where we should exercise our powers under Article 226 of the Constitution of India, however, the petitioner has remedy to approach the Magistrate under Section 156(3) of the Code of Criminal Procedure and we adopt the same view as was adopted in case of **M. Subramaniam** (supra) and grant liberty to the petitioner to approach learned Magistrate of competent jurisdiction under Section 156(3) of the Code of Criminal Procedure. If such application is made, then the concerned Magistrate to decide it on its own merits.

5 With these observations, writ petition stands disposed of.

(**HITEN S. VENEGAVKAR, J.)**

(**SMT. VIBHA KANKANWADI, J.)**

agd