



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

CRIMINAL WRIT PETITION NO.490 OF 2025

Ramdas So-Trimbak More,
Age-76 years, Occu:Agril.,
R/o-Kumbhari, Taluka-Jafrabad,
District-Jalna

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Home Department,
Mantralaya, Mumbai-32,
- 2) The Superintendent of Police,
Jalna, District-Jalna,
- 3) The Inspector of Police,
Jafrabad, Taluka-Jafrabad,
District-Jalna.

...RESPONDENTS

...
Mr. Dinkar G. Kamble Advocate for Petitioner.
Mr. V.K. Kotecha, A.P.P. for Respondent Nos. 1 to 3.
...

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

DATE : 8th JULY 2025

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

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

"B) By issuing writ of mandamus against the respondent authority i.e. respondent No.3, he may be directed to conduct investigation and to submit its report forthwith in order dated Order passed by Ld. J.M.F.C., Jafrabad, Dist-Jalna on Application Dated 05/08/2013 filed by Bar Association of Jafrabad.

C) The explanation/show cause notice may be issued against respondent No.2 under Contempt of Court Act for non-compliance of order passed by Ld. J.M.F.C., Jafrabad, District-Jalna on Application Dated 05/08/2013 filed by Bar Association of Jafrabad, and application dated 03/10/2024 of petitioner."

2. Heard learned Advocate for the petitioner and learned APP for respondent Nos. 1 to 3, after waiving notice.

3. It appears that some incident had taken place within the Court premises and then the Advocates' Bar Association had given some representation to the learned Judicial Magistrate First Class, Jafrabad. The said incident appears to have been taken place on 5th August 2013 and on the same day the learned Magistrate has passed the following order:-

"O

Read report filed by the undersigned applicant. The applicant or concerned person to file complaint, if any, as per law.

Sd/-
5/8/2013
JMFC"

4. It appears that though this order came to be passed in 2013, the petitioner had not approached the police to lodge the First Information Report (for short "the FIR") nor taken steps as per the decision in ***Lalitakumari vs. State of U.P., 2013 All MR (Cri.) SC 4444***. Thereafter all of a sudden, it appears that an application came to be filed before this Court on 5th April 2023 and the Deputy Registrar (Establishment) of this Court forwarded the said complaint application to the Superintendent of Police, Jalna. Even copy was given to the petitioner for information with the direction to approach the Superintendent of Police, Jalna for redressal of his grievance. It appears that on 3rd October 2024, instead of going to District Superintendent of Police, petitioner wrote a letter. There is no explanation as to why he had not approached, with the written complaint, to Police Inspector, Jafrabad Police Station and then if there would have been a refusal by the concerned to register the FIR, then to approach the District Superintendent of Police, Jalna and then failing of both the authorities, had not taken recourse to Section 156(3) of the Code of Criminal Procedure. We, therefore, rely on the decision in ***Sakiri Vasu Vs. State of Uttar Pradesh and others, 2008 (2) SCC 409***, which was then followed in ***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. In ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others,*** (supra), a note has been taken of the decision in ***Sakiri Vasu Vs. State of Uttar Pradesh and others,*** (supra), wherein it has been 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) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter."

5. In ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others,*** (supra), it is then specifically observed that:-

" We have said this in Sakiri Vasu case because what we have found in this Country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation."

. It has been further observed that:-

" We are of the opinion 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. Hence, we have held that the complainant must avail of his alternate remedy to approach the concerned Magistrate Under Section 156(3), Code of Criminal Procedure, and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation."

6. Thus, no such direction for registering the FIR and conducting the investigation can be given under Article 226 or 227 of the Constitution of India. The other prayer regarding Contempt of Court Act does not arise at all as there was no order to respondent No.2 by any authority on the judicial side. Whatever letter was given by the office of this Court, was the forwarding letter to look into the matter and it cannot be said to be an order on the judicial side. There is no merit in the present Writ Petition and it deserves to be dismissed.

7. Accordingly, the Writ Petition stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE