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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 CRIMINAL WRIT PETITION NO. 700 OF 2024

Subhash Karbhari Nirmal

VERSUS

The State Of Maharashtra And Others

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Mr. Ajinkya Kale, Advocate i/b Talekar and Associates for Petitioner

Mr. S.A. Gaikwad, APP for Respondent – State

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CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 16 SEPTEMBER, 2025

PER COURT :-

1. Heard the learned advocate appearing for the petitioner.
2. The present petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India as well as the inherent powers under Section 482 of the Code of Criminal Procedure, seeking a direction to respondent Nos. 5 and 6 to register an FIR against the persons alleged to be involved in the commission of the crime, in the light of the complaint made by the petitioner, by issuance of a writ of mandamus. Other consequential prayers are also made, however, in view of the decision in *Sakiri Vasu v. State of U.P. and Others*, (2008) 2 SCC 409, and *M. Subramaniam and Another v. S. Janaki and Another* (2020) 16 SCC 728, wherein the ratio laid down in *Sakiri Vasu* (supra) has been reiterated.

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3. We hold that this Court cannot issue directions as prayed for. However, following the course adopted in *M. Subramaniam* (supra), we deem it appropriate to grant liberty to the petitioner to approach the Magistrate under Section 156(3) of Cr.P.C.

4 It is the contention in Ground No. 3 that even under Section 154(3) of the Code of Criminal Procedure, the Superintendent of Police failed to take action on the petitioner's complaint despite the documents disclosing the commission of a cognizable offence. In such circumstances, it was necessary for the petitioner to approach the Magistrate under Section 156(3) of Cr.P.C.

5. The Writ Petition stands disposed of with liberty to the petitioner to approach the Magistrate under Section 156(3) of Cr.P.C. If such an application is made, the concerned Magistrate shall decide the same in accordance with law

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE