



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 CRIMINAL WRIT PETITION NO. 574 OF 2025

HIRABAI BAPU WAGHMARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Farooqui Kamloddin Nuruddin Advocate for Petitioners.
Mr. S.A. Gaikwad, A.P.P. for Respondents.

...

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

DATE : 12th JUNE 2025

ORDER :

1. Present petition has been filed to direct the respondent authorities to decide the complaint filed by petitioner No.1, on 7th April 2025, before the Superintendent of Police, Beed and to register the First Information Report (for short "the FIR") as per the said complaint, by considering the medical memo and medical reports dated 24th March 2025.

2. Heard learned Advocate Mr. Farooqui appearing for the petitioners as well as learned APP for respondents. Learned APP waives notice for the respondents.

3. Learned Advocate for the petitioners has taken us through the complaint application that was filed by the petitioner on 7th April 2025 and submits that though cognizable offence has been made out, offence has not been registered.

4. We are guided by the decisions 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), it is specifically observed that in *Sakiri Vasu Vs. State of Uttar Pradesh and others*, (supra), guidelines have been given as to how this Court cannot entertain the prayer for direction to register the FIR. It is specifically observed that when there is specific provision under Section 156(3) of the Code of Criminal Procedure (old) and present Section 175 of Bhartiya Nagarik Suraksha Sanhita (for short "the B.N.S.S.") empowering the Magistrate to order investigation upon compliance of the procedure laid down in 175(3) and 175(4) of B.N.S.S., as the case may be, the High Court should not entertain such petitions. It has been further 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. In spite of these decisions, we come across the writ petitions wherein then we are required to point out the position of law and give liberty to the petitioner to approach the learned Magistrate on the similar footing as was taken by the Hon'ble Supreme Court in *M. Subramaniam and others vs. S. Janaki*, (supra).

5. Learned Advocate for the petitioners submit that he may be allowed to withdraw the Petition, upon instructions, taking into consideration the legal position, with liberty to the petitioners to approach the Magistrate under Section 175 of the B.N.S.S.

6. In view of the above observations, the Petition stands disposed of as withdrawn with liberty to the petitioners to approach the learned Magistrate under Section 175 of the B.N.S.S and if such course is taken, the learned Magistrate to decide such application on its own merits.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE