



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

9 CRIMINAL WRIT PETITION NO. 806 OF 2025

Narayan S/o Tukaram Irbatanwad,
Age : 47 Years, Occu. : Business,
R/o. Sirur Tajband, Tq. Ahmedpur,
Dist. Latur.

.... Applicant

VERSUS

1. The State of Maharashtra,
Through its Secretary, Home Department,
Mantralaya, Mumbai.
2. Superintendent of Police,
Latur.
3. Police Inspector,
MIDC Police Station, Latur.
4. Balaji S/o Mahadu Mohite,
Age : 52 Years, Occu. : Service,
Police Inspector, Chakur,
At present attached with
Police Control Room, Latur.

.... Respondents

....
Advocate for the Petitioner : Mr. Nitin U. Telgaonkar
APP for Respondent Nos.1 to 3-State : Mr. V.K. Kotecha
....

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

Dated : 23rd July 2025

PER COURT :-

1. The present petition has been filed for seeking directions against respondent Nos.2 and 3, to register an First Information Report (for short "the FIR"), against respondent No.4, for the offences punishable under Sections 307, 326, 166, 166-A and B and 167 of the Indian Penal Code, 1860 and establishing SID as well as necessary legal action against respondent Nos.2 and 3, for dereliction of their duties.

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

3. It appears that the petitioner intends to say that when the police authority had come at his house, at that time, respondent No.4 fired from his pistol, causing serious injury to the petitioner and in that respect, he wanted to lodge an FIR, however, it was not taken. Instead, the FIR has been lodged against the petitioner. The petitioner had made a complaint to Superintendent of Police, Latur on 29.01.2024, however, no cognizance of the same has been taken.

4. Taking into consideration the legal position in *Sakiri Vasu Vs. State of U.P. and Ors.*, [(2008) 2 SCC 409], *Sudhir*

Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Ors., [(2016) 6 SCC 277] and M. Subramaniam and Ors. Vs. S. Janaki and Ors., [(2020) 16 SCC 728], this Court cannot direct the registration of the offence and the procedure has been stated in **Sakiri Vasu (Supra)** itself as well in *Priyanka Srivastava and Another Vs. State of U.P. and Ors., [2015 AIR SC 1758]*. Now, learned Advocate for the petitioner intends to rely on an order that has been passed by this Court in *Smt. Vijayabai Vyankat Suryawanshi Vs. The State of Maharashtra and Ors., decided on 04.07.2025*, wherein this Court had directed the registration of the offence. However, it is to be noted that, *prima facie*, it has been considered in that case that it was the custodial death. But the facts herein are different as has been tried to be stated in the said complaint dated 29.01.2024. Therefore, there is no question of equal treatment to the petitioner; rather, the above said decisions of the Hon'ble Supreme Court are required to be followed.

5. After disinclination is shown to grant the reliefs, learned Advocate for the petitioner seeks withdrawal of the petition with liberty to approach a Magistrate having competent jurisdiction under Section 156(3) of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."). In **M. Subramaniam (Supra)**, the same course was adopted, therefore, we are also adopting the same course. If all the

requirements under the decisions in **Sakiri Vasu (Supra)** and **Priynaka Shrivastava (Supra)** are fulfilled, then the petitioner would be at liberty to approach a Magistrate under Section 156(3) of Cr.P.C. or any other equivalent provision. If such application is made, then the Magistrate to decide it on its merits.

6. With these observations, the Writ Petition stands disposed of.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd