



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

24 CRIMINAL WRIT PETITION NO. 838 OF 2025

Bilal Yousuf Shaikh
Age : 38 yrs. Occu. Business and
Editor of Sayankal Dainik Vishvanayak,
Khas Bagh, Khaja Nagar, Devi Road,
Beed, Dist. Beed.

... Petitioner

Versus

1. The State of Maharashtra
Through the Secretary
Energy Department, Maharashtra State
Mantralaya, Mumbai-32.
2. The Managing Director
M.S.E.D.C.L (Govt. of Maharashtra undertaking)
Office of the Chief Investigation Officer
Estella Batteries Extension, Plot No. 1
Dharavi Road, Matunga, Mumbai-19.
3. The Joint Managing Director
MSEDCL Regional Office
Chhatrapati Sambhajnagar
Near Mill Corner,
Dist. Chhatrapati Sambhajnagar.
4. The Superintending Engineer
MSEDCL Circle Office
'Vidyut Bhavan', Jalna Road
Beed, Dist. Beed.
5. The Executive Engineer
MSEDCL Divisional Office
Jalna Road, Vidyut Bhavan
Beed, Dist. Beed.

6. The Superintendent of Police
Beed, Tq. & Dist. Beed.

7. The Police Inspector
Peth Beed Police Station, Beed.

... Respondents

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Mr. N. L. Jadhav, Advocate for the Petitioner.
Smt. R. P. Gour, APP for Respondents / State.

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

DATE : 21st July, 2025.

Per Court:

. Present writ petition has been filed for giving directions to the respondents to register an offence against the persons named in the enquiry report of three member committee appointed at MSEDCL, Beed, Branch No.1 and the representation / complaint by the petitioner on 18th January, 2024.

2 The learned counsel for the petitioner submits that the petitioner is a citizen, who had come across the incidence in respect of feeder line and poles those have been unauthorizedly removed and sold by / under the instructions of the Branch Engineer Mr. Kasbe. The enquiry report also concludes that since there was no approval for the electricity line to be installed from Millat Nagar onwards, Mr. Kasbe had then directed the contractor Jai Hind Empire to take out the line and

the poles. The said articles were not then deposited with the MSEDCL store. Thus, according to the petitioner there is a theft as contemplated under Section 135 of the Electricity Act. In view of Section 151 of the said Act, which bars the Court from taking cognizance of an offence punishable under the said Act, except upon a complaint in writing made by the Appropriate Government or Appropriate Commission or any of their officer authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, the petitioner cannot file such complaint / FIR with the police and therefore, the petitioner had no option but to seek the Writ of Mandamus. He relies on the decision of ***Vishal Agrawal and Anr. Vs. Chhattisgarh State Electricity Board and Anr.***, reported in, ***2014 AIR (SC) 1539***, wherein it is stated that though the police can investigate, yet Section 151 of said Act makes a provision that the FIR should be by a specific person.

3 Heard the learned APP.

4 At the outset, we would like to say that the petitioner in his private capacity seeks direction against the officers of the MSEDCL company to take action against the erring officers, on the basis of the enquiry report. In this respect, we could see that there would be possibility of departmental action as per the procedure and the service

conditions or on the criminal side. But when the petitioner is insisting upon the criminal action to be taken, then we are guided by the decisions in ***Sakiri Vasu Vs. State of Uttar Pradesh and others, 2008 (2) SCC 409, 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,*** wherein it has been laid down and reiterated that under the constitutional powers under Article 226 of the Constitution of India and Section 482 of Cr.P.C., such directions for registration of the FIR cannot be given. What kind of action should be taken by an employer, as the employer who may be Government or Semi-Government organization, cannot be controlled by this Court. It would then be free for the petitioner to approach the police authority with the complaint. He should try to lodge the FIR as contemplated under Section 154 of the Cr.P.C., as has been laid down in ***Priyanka Srivastava and Another Vs. State of U.P. and Others, 2015 AIR SC 1758.*** Further, in the same decision, the Honourable Supreme Court has stated that if the police inspector of a police station fails to record the FIR, then such person may approach the higher authority and in view of ***Priyanka Srivastava*** (supra) as well as ***Sakiri Vasu*** (supra) etc., if the police authorities are not acting, then such person can approach the Magistrate under Section 156(3) of the Cr.P.C.

5 Now, in this case, the petitioner is apprehending that Section 151 Amendment in the Electricity Act, 2003, would be a hurdle for him and therefore, the learned counsel for the petitioner relies on ***Vishal Agrawal and Anr. (supra)***. Perusal of the said decision would show that a pure question of law that arose for consideration before the Honorable Supreme Court was; whether the amendment in Section 151 of the Electricity Act, 2003, which empowers the Court to take cognizance of an offence upon a report made by the police under Section 173 of Cr.P.C. would be applicable to the pending complaints filed before the aforesaid amendment and for this point, it was observed by the Honorable Supreme Court that “ To answer this question, scope and interpretation of Section 151, as it stood prior to the amendment, also needs to be considered.” Thereafter, taking into consideration the provision as it was prior to the amendment and after the amendment as well as taking into consideration other Sections from the Electricity Act, it was then held that the police shall take cognizance of the offence punishable under the Act on a complaint in writing to the police by the Appropriate Government or the Appropriate Commission or any of their officer authorized by them in this regard or a Chief Electrical Inspector etc. as contemplated under Section 151 of the said Act and then the police shall investigate the complaint in accordance with the general law applicable to the investigation of any complaint and for the purpose of investigation, the police shall have all

the powers as available under the Code of Criminal Procedure.

6 Now, taking into consideration the question of law, which was before the Honorable Supreme Court, it can be seen that it was restricted to the offences those were transpiring under the Electricity Act. Now, taking into consideration the facts in the present case, suffice it to say that the action that can be taken need not be restricted to the Electricity Act. The offence under the IPC may also get attracted under same given circumstances and taking into consideration the enquiry report when even the contractor appears to be in the picture. Therefore, according to us, that is the *prima-facie* opinion that Section 151 of the Electricity Act will not be a hurdle for the present petitioner to approach the police, if he desires. Further, the Special Court, which is established under the Electricity Act, is also having the powers as Magistrate and therefore, taking into consideration the decisions stated above and the facts, we are of the opinion that the case is not made out for exercise of the constitutional powers of this Court.

7 The learned counsel for the petitioner, now, seeks withdrawal of the petition with liberty to take appropriate action as contemplated under the ***M. Subramaniam and others Vs. S. Janaki*** (*supra*) as the liberty was given in ***M. Subramaniam and others Vs. S. Janaki*** (*supra*) to the petitioner / complainant therein to approach

the appropriate authority as well as the Magistrate under Section 156(3) of Cr.P.C. We adopt the same procedure.

8 The petition is disposed of with liberty as prayed.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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