



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.923 OF 2025

X Y Z

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) The Superintendent of Police,
Ahilyanagar, District-Ahilyanagar,
- 3) Dr. Surendra Vishwasrao Pimpalkar,
Occu:Doctor, Age-50 year,
R/o-Pipeline Road, Shrikrishnagar,
Ahilyanagar, Permanent Address-
Pariwar Colony No.4, Keshavnagar,
Akola, Taluka and District-Akola

...RESPONDENTS

...
Mr. N.R. Thorat Advocate for Petitioner.
Mr. V.K. Kotecha, A.P.P. for Respondent Nos.1 and 2.
...

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

DATE : 16th JULY 2025

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

1. Present petition has been filed for directing respondent Nos.1 and 2 to decide the application dated 13th May 2025, to

conduct inquiry/investigation and direct them to register the crime against respondent No.3.

2. Heard learned Advocate for the petitioner.

3. The petitioner intends to file First Information Report for the offence under Section 74 of Bharatiya Nyaya Sanhita against respondent No.3. It appears that she has filed a written complaint with Police Inspector, M.I.D.C. Police Station, Ahilyanagar on 13th May 2025 and copy of the same was given to the District Superintendent of Police, Ahilyanagar. Important point to be noted is that the petitioner is a major lady in medical profession. We are bound by law and cannot get swayed away with sympathy. No doubt if the cognizable offence was transpiring, the police were bound to register the FIR, however, if the police are not responding, then as per ***Priyanka Srivastava and another vs. State of UP and another, 2015 (6) SCC 287***, the Hon'ble Supreme Court has laid down the procedure. After waiting for the reasonable time, such complainant should approach the higher authority. Now in this case, at the same time copy of complaint application dated 13th May 2025 has been sent to District Superintendent of Police, Ahilyanagar. Further as

per *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*, this Court cannot give directions by exercising powers under Article 226 of the Constitution of India or even under Section 482 of the Code of Criminal Procedure / now Section 528 of the Bharatiya Nyaya Suraksha Sanhita, for the registration of the offence.

4. 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. In this case, the Petitioner has the remedy to approach the Magistrate under Section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023. Therefore, if the petitioner complies with the requisites as per ***Priyanka Srivastava and another vs. State of UP and another***, (supra), she would be at liberty to approach the Magistrate under Section 175(3) of the Bharatiya Nyaya

Suraksha Sanhita (old Section 156(3) of the Code of Criminal Procedure).

7. No case is made out for taking any cognizance in the present Writ Petition. The directions prayed for, cannot be granted. The Writ Petition stands disposed of.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JULY25