



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

79 CRIMINAL WRIT PETITION NO.1613 OF 2022

MUZAMMIL ARSHAD SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Mohd. Amir, Advocate h/f Mr. R.M. Shaikh, Advocate for petitioner

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 to 5

...

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

DATE : 04th SEPTEMBER, 2025

ORDER :

. Learned Advocate Mr. Mohd. Amir holding for learned Advocate Mr. R.M. Shaikh submits that learned Advocate for petitioner has personal difficulty.

2 It is to be noted that writ petition is pending since 2022 for following reliefs :

“(B) The respondent District Collector, Jalna may kindly be directed to register the FIR in view of the letter dated 27.09.2021 issued by the Dy. Commissioner (Revenue), Divisional Commissioner Office, Aurangabad and in view of the report dated 30.11.2021 submitted by the Superintendent of Police, Jalna.

(C) The respondent No.5 may kindly be directed to lodge the FIR in view of the inquiry conducted by the Police Inspector Sandeep Rajput and investigate the case as per law.”

3 We have gone through representation or letter dated 27.09.2021 addressed by Deputy Commissioner (Revenue), Divisional Commissioner Office, Aurangabad to Collector, Jalna, wherein it appears that on the basis of complaint application dated 22.01.2021, 28.01.2021, 30.07.2021, 10.08.2021, 14.09.2021, 24.09.2021 the action was taken and directions were given to register First Information Report. This letter dated 27.09.2021 appears to be only on the basis of complaint application and the alleged pen-drive annexed by petitioner with complaint application. It also appears that there was no preliminary inquiry that was carried out. Now, the fact is that according to petitioner, First Information Report has not been lodged by District Collector, Jalna, in view of this letter dated 27.09.2021. The first and the foremost fact that is required to be noted that if the petitioner had any evidence with him, he ought to have approached the police to lodge First Information Report. When the said directions or the letter dated 27.09.2021 appears to be only on the basis of complaint application of petitioner and there was no preliminary inquiry, the District Collector, Jalna was then justified in taking his own recourse. Now, if the petitioner was interested in prosecuting the persons, he ought to have approached the police. Even after

approaching this Court in November, 2022, he has not pursued the matter properly.

4 We are taking note of the legal position as stated in 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 277] and **M. Subramaniam and another vs. S. Janaki and another** [(2020) 16 SCC 728], wherein Hon'ble Supreme Court has held that petitions under Article 226 of the Constitution of India or even applications under Section 482 of the Code of Criminal Procedure should not be entertained by this Court for directions to register First Information Report and accordingly we are disposing of the writ petition.

5 Of course, as the recourse adopted in **M. Subramaniam** (supra) we are granting liberty to petitioner to approach learned Magistrate under Section 156(3) of the Code of Criminal Procedure, which will have to be then decided by learned Magistrate as per law, on its own merits.

6 With these observations, we **dispose of** the writ petition.

(**HITEN S. VENEGAVKAR, J.)**

(**SMT. VIBHA KANKANWADI, J.)**

agd