



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1845 OF 2024

Chagan Sukdeo Shinde,
Age-87 yeas, Occu:Retired/Agriculture,
R/o-Adarsh Nagar, Shirpur,
Tq-Shirpur, Dist-Dhule.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Mantralaya, Mumbai,
- 2) Police Superintendent,
Office of Superintendent of Police,
Dhule, Dist-Dhule,
- 3) Police Inspector,
Thalner Police Station,
Tq-Shirpur, Dist-Dhule,
- 4) Police Inspector,
Shirpur Police Station,
Tq-Shirpur, Dist-Dhule.

...RESPONDENTS

...
Mr. Yogesh B. Bolkar Advocate for Petitioner.
Mr. S.A. Gaikwad, A.P.P. for Respondents.
...

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

DATE : 28th JANUARY, 2025

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

1. Present petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India for following reliefs :-

"A) Criminal Writ petition may kindly be allowed.

B) By way of appropriate writ, order or direction in the like nature, this Hon'ble High Court may kindly direct the respondent Nos.2 to 4 to take cognizance of the complaints dated 22.02.2024, 26.03.2024, 05.04.2024 and the complaint dated 14.05.2024 lodged by the petitioner pursuant to the order dated 19.04.2024 passed in Criminal Writ Petition No 742 of 2024 and consequently to register the cognizable offense against the accused persons.

C) By way of appropriate writ, order or direction in the like nature, this Hon'ble High Court may kindly direct the respondent Nos. 2 to 4 to scrupulously adhere the guidelines formulated by the Hon'ble Supreme Court in the case of *Lalita Kumari Vs. State of Uttar Pradesh reported in 20r4 Cri. L.J. 470* and consequently to register the offense pursuant to the complaints made by the petitioner."

2. Heard learned Advocate for the Petitioner and learned APP for respondents/State.

3. Learned Advocate for the petitioner submits that the petitioner is the farmer and retired employee from Central Bank

of India. The Petitioner usually was selling cotton to Priyadarshini Sahakari Soot Girni Ltd. Shirpur, Dist. Dhule (Maharashtra). When the petitioner had been to the Priyadarshini Sahakari Soot Girni Limited, Shirpur, at that time, the Management Committee and responsible officers informed the petitioner that they are giving good rate of interest to the member on deposits and if the petitioner deposits the amount with them, he will get good rate of interest and benefits on its deposit. By keeping trust on the promises and assurance of the Management Committee as well as Managing Director and other officers, petitioner has given deposit to the said Priyadarshini Sahakari Soot Girni Ltd., Shirpur. Thereafter, the petitioner had been to the said Priyadarshani Sahakari Soot Girni Limited, Shirpur for encashment of said deposit along with original deposit receipt. But the Management Committee, Managing Director and other office bearers of said Soot Girni Limited, Shirpur asked him to come later after one month. Again after one month same answer was given by them. It happened 5 to 6 times repeatedly. According to the information of the petitioner, the said Soot Girni through its Members of the Managing Committee and Office-bearers have received approximately Rs.90,00,00,000/- (Rupees Ninety Crores only) as deposits and refused to pay the same to

the depositors. The petitioner tried to give written letter for demanding the amount, but the Managing Committee and office bearers of the said Soot Girni Limited, Shirpur refused to take the same and thereafter, they have not permitted the petitioner to enter into premises. Even they have started giving threats of dire consequences if the petitioner goes there again. Further, the petitioner came to know that the management committee, managing director and other office bearers of the said Soot Girni has collected crores of rupees from the members as deposit on the false promises and assurance of giving good interest and benefits on the deposits and so many traders and farmers have deposited huge amount with them. Therefore, the petitioner has filed complaints with the respondent authorities. Thereafter, on 14.05.2024 the petitioner filed complaint with the Superintendent of Police, Dhule and prayed for registration of offence under Sections 3, 4 and 5 of the Maharashtra Protection of Interest and Depositors Act, 1999 and under Sections 406, 409, 420, 506 and 120-B of the Indian Penal Code.

4. Learned Advocate for the petitioner relies upon judgment of Hon'ble Supreme Court in case of *Lalita Kumari vs. State of Uttar Pradesh and others*, [2014(2) SCC 1] and submits that the

complaint filed by the petitioner discloses cognizable offence and, therefore, it was mandatory for the police to record the First Information Report.

5. We are taking note of the decision in case of ***Sakiri Vasu Vs. State of Uttar Pradesh and others, 2008 (2) SCC 409***, wherein it has been observed thus :-

"25. we have elaborated on the above matter because we often find that when someone has a grievance that the First Information Report has not been registered at a police station and/or an appropriate investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his altering remedy, firstly under Section 154(3) and Section 36 Cr.P.C. before the concerned police officers and if that is of no avail, by approaching a Magistrate concerned under Section 156(3).

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then

should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?"

6. A decision in ***Sakiri Vasu (supra)*** was then relied in case of ***T.C. Thangaraj vs. V. Engammal & others, 2011(12) SCC 328*** and ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others, 2016(6) SCC 227***. In case of ***Sudhir (supra)*** it has been observed thus :-

" 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. "

7. Further, all these decisions are referred in Three Judge Bench decision of the Hon'ble Supreme Court in ***M. Subramaniam and others vs. S. Janaki, 2020(16) SCC 728***. Especially, paragraph Nos.2, 3 and 4 from ***Sudhir Tambe (supra)*** were referred. Important point to be noted is that in Three Judge Bench decision in ***M. Subramaniam (supra)***, the order passed by Madurai Bench of Madras High Court to register the case i.e. First Information Report on the basis of complaint was challenged. That order was set aside. Taking into consideration

the decision in *Sakiri Vasu (supra)*, *Mohd. Yusuf vs. Smt. Afaq Jahan, 2016(1) SCC 627* and *Sudhir Tambe (supra)*, as aforesaid, the impugned order was set aside. Therefore, in this case, the Petitioner has the remedy to approach the Magistrate under Section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 and we adopt the same course as was adopted in case of *M. Subramaniam (supra)* and observe that this Court has not expressed any opinion on the merits of the complaint as to whether that complaint is disclosing any criminal offence or not. However, this proceeding should not be taken as an impediment for the petitioner to approach concerned Judicial Magistrate, if advised. Of course, the Magistrate is then guided by the provisions of law.

8. With the above observations, the Petition stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE