JVS.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5130 OF 2025

Mohan Dattu Baswant	}	Petitioner
versus		
Police Inspector in Charge Nallasopara	}	
Police Station & Ors.	}	Respondents

Mr. Anil D'souza with Mr. Mark Dbritto i/b. Ernest Tuscano, Advocates for the Petitioner.

Ms. M. M. Deshmukh, In-Charge Public Prosecutor with Mr. J. P. Yagnik, APP for Respondent Nos. 1 to 5.

CORAM: SHREE CHANDRASHEKHAR, CJ. & GAUTAM A. ANKHAD, J.

DATE: 6th OCTOBER 2025

P.C.:

With a statement as made under clause (C) of the grounds in this petition that once an information is disclosed about the commission of a cognizable offence the concerned police officer is duty bound to register a First Information Report, the petitioner makes the following prayer: -

> *"a. That this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order of this Hon'ble Court, to Respondents No. 1 to 2 to file FIR of the offences committed by Hemant Anant Patil and his conspirators under appropriate sections of Bharatiya Nyaya Sanhita, 2023 and Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and proceed in accordance with the law."*

2. Mr. Anil D'souza, the learned counsel for the petitioner refers to the decision in "*Vinod Kumar Pandey & Anr. v. Seesh Ram Saini & Ors.*" 2025 SCC OnLine SC 1951 and "*Lalita Kumari v. Government of Uttar Pradesh & Ors.*" (2014) 2 SCC 1 and submits that the petitioner who belongs to Scheduled Tribe has been

running from pillar to post but his complaints made to the concerned police officer and the superior police officers are not taken cognizance of. The learned counsel for the petitioner further states that the petitioner has no efficacious remedy but to approach this Court by filing this writ petition under Article 226 of the Constitution of India.

3. In this writ petition, the petitioner states that his family owns huge parcels of land under Survey No. 163, Hissa No. 1/B/1, admeasuring 12910 square meters in village Nilemore, Taluka Vasai in the district of Palghar. According to the petitioner, one Hemant Anant Patil approached him and his family members for getting good consideration for the land from Vasai Virar City Municipal Corporation and, pursuant thereto, an application was filed under section 36/36A of the Maharashtra Land Revenue Code, 1966 on 27th October 2017 but the said application was dismissed by the Collector on 16th May 2019 and the Appeal vide Appeal No.395 of 2019 filed before the Additional Commissioner, Konkan Division came to be dismissed on 21st August 2019. The petitioner further states that a Revision Petition under section 247 of the Maharashtra Land Revenue Code, 1966 was filed before the Revenue Minister being RTS-425-J4A-2019 and the orders dated 16th May 2019 and 21st August 2019 were quashed by the order dated 11th September 2019. The petitioner further states that the total valuation of the subject land should have been Rs.9,02,02,000/- but an amount of Rs.90,00,000/- was only shown to be deposited in government bank account by one Suraj Ramu Baswant. In Clauses (g) to (i) of paragraph no. 4 of the writ petition, the petitioner further states as under: -

> *"g) Pursuant to above order VVCMC issued two DRCs viz. DRC 256 for 28402.00 Sq. Mt. and DCR 264 for 4733.66 Sq. Mt. The rate of land mentioned therein was 12,000/- per square meters as per schedule rates of VVCMC. Therefore, the aggregate*

*consideration under two DRCs was amounting to about Rs. 30 Crores. For this purpose, a Gift Deed was executed in favour of VVCMC and the two DRCs were shown to be consideration. Pursuant to the order dated 10 June 2021 passed by Collector, Palghat, the subject land was transferred to VVCMC by way of Gift Deed registered with the office of Sub-Registrar Vasai under Serial no. Vasai-5-6513/2021. At that time, the ready reckoner rate/government market value of the said land was shown as Rs. 15,49,20,000/-. Therefore, for all intent and purposes at least Rs. 15,49,20,000/- was the consideration under the said Gift Deed. This transfer was carried out by the Petitioner and his family relying upon the representations from Hemant Anant Patil and his allies. Hereto annexed and marked as **Exhibit "C"** is copy of Gift Deed.*

*h) After receiving the said DRC, a meeting was held in March 2022 between Hemant Anant Patil and his allies and Petitioner and his family members. It was represented by Hemant Patil that although the ASR (Annual Schedule of Rates) mentioned in the DRC was Rs. 12,000/- per sq.m., totaling to Rs. 39,76,27,920/-, since the TDR market was depressed, it would not fetch the stated value and he would pay an amount of Rs. 25,00,00,000/- (Rupees Twenty-Five Crore Only) to the Petitioner and his family after deducting the expenses incurred by him as full and final consideration and he would be entitled to sell the TDR under these 2 DRCs in the open market. Taking undue advantage of the Petitioner's social status and lack of knowledge and experience and gullible nature, Hemant Patil purchased DRC 256 by showing the consideration of Rs. 4,25,16,833/- (Rupees Four Crore Twenty-Five Lakh Sixteen Thousand Eight Hundred Thirty-Three Only) through document no. Vasai-4-4577-2022 on 30 March 2022, and DRC 264 for Rs. 1,62,67,000/- (Rupees One Crore Sixty-Two Lacs Sixty-Seven Thousand Only) through document no. Vasai-2-21054-2023 on 24th November 2023. Hereto annexed and marked as **Exhibit 'D"** is copy of Deed of Transfer dated 30 March 2022 and **Exhibit "E"** is copy of the Deed of Transfer dated 24 November 2023.*

i) In the Deed of Transfer dated 30 March 2022 it was shown that prior to the said Agreement, Hemant Patil has paid the Petitioner and his family a sum of Rs. 4,25,16,833/- out of which Rs. 1,65,42,000/- was paid, without showing any details/particulars of such payments and when, how and in what manner, mode they were paid. The balance consideration of 1,84,58,000/- was shown to be paid at the time of registration of the said Deed. However, contrary to the terms written in the agreement, the Receipt appended to the said deed stipulates that entire consideration of Rs. 4,25,16,833/- is received by the Petitioner and his family. This receipt was without showing any details/particulars of such payments and when, how and in what manner, mode they were paid. However, the Petitioner and his family members never received these amounts as shown to have been paid by Hemant Patil. This shows the criminal intentions of Hemant Anant Patil (from the very beginning when he approached the Petitioner) who by taking undue advantage of social status of Petitioner and his family members duped them by non-payment of the due and appropriate consideration which they are entitled in *law. For the purpose of ready reference internal* ***page number 16 of 56 of the said*** *Deed of Transfer dated 30 march 2022."*

4. As it may cause prejudice to the petitioner, we are not reflecting on the merits of the allegations made by the petitioner in the present writ petition. Suffice it would be to indicate that the stand taken on behalf of the petitioner that the alternative remedy of filing a petition under section 175(3) of Bharatiya Nagrik Suraksha Sanhita shall not be an efficacious remedy to the petitioner is bereft of substance. This is our observation that the aggrieved persons are coming to the Court seeking exercise of jurisdiction under Article 226 of the Constitution of India or section 528 of the Bharatiya Nagrik Suraksha Sanhita merely because the concerned police officer or the superior police officer has failed to take cognizance of such complaints. This is quite a well settled law that the aggrieved person first must avail of the statutory remedy provided under the statute for redressal of his grievance and a mere statement that such remedy shall not be an efficacious remedy is not acceptable. The decision in "*Vinod Kumar Pandey"* was rendered in a different fact-situation. In the said case, the Hon'ble Supreme Court took note of the fact that the officers of the Central Bureau of Investigation (CBI) had committed irregularities, if not, illegalities in discharge of their official duty and they were found *prima facie* guilty of the commission of offence. Quite clearly, the decision in "*Vinod Kumar Pandey"* turned on its peculiar facts and circumstances.

5. Having regard to the aforesaid facts and circumstances, Writ Petition No. 5130 of 2025 is dismissed.

JAYANT VISHWANATH SALUNKE

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Date: 2025.11.03 12:10:18 +0530

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**