

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 5951 OF 2025**

Moshe Shek

.....Petitioner

Vs.

The State Of Maharashtra

.....Respondent

Mr. Niranjan Mundargi with Mr. Pushkraj Deshpande and Mr. Rohan Marathe i/by ALMT Legal for the Petitioner.

Mr. P.P. Chavhan i/by Adv. Komal Punjabi for the Respondent No.1-BMC.

Mr. Ajay Patil APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 22nd DECEMBER, 2025.**

P.C.:-

1) By this Petition under Article 226 of the Constitution of India, the Petitioner is seeking lodgment of crime on the basis of complaint dated 9th September, 2025, submitted to the Senior Inspector of Police, Nagpada Police Station, Mumbai of which cognizance has not been taken by the concerned police Authority.

2) Mr. Mundargi, learned Advocate for the Petitioner submitted that, the Petitioner had earlier filed WP No.3009 of 2025 with similar prayer however, at the relevant time the complaint with the said Police Station was not filed on the basis of a representation/complaint submitted

to the Mumbai Municipal Corporation and therefore the Petitioner has withdrawn the said Petition unconditionally.

2.1) He submitted that, though the said Petition was withdrawn unconditionally, a separate cause of action now arises from the complaint dated 9th September, 2025 filed by the Petitioner before the Nagpada Police Station, Mumbai-400 008.

3) It is the settled position of law and as has been reiterated by the Hon'ble Supreme Court in the case of *M. Subramaniam & Anr. Vs. S. Janaki & Anr., reported in (2020) 16 SCC 728* that, Petition under Article 226 of the Constitution of India for lodgment of crime is not maintainable, however the Petitioner is having remedy of filing a private complaint before the jurisdictional Magistrate.

4) In view of the above, Mr. Mundargi, learned Advocate for the Petitioner seeks leave to withdraw Petition with liberty to file a private complaint before the jurisdictional Magistrate, on the basis of his Complaint dated 9th September, 2025 submitted to the Nagpada Police Station, Mumbai, as may be permissible in law.

4.1) Leave and liberty granted.

5) Disposed off as withdrawn with aforesaid liberty.

(RANJITSINHA RAJA BHONSALE J.)

(A.S. GADKARI, J.)