2026 INSC 442

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(@ of Special Leave Petition (Crl.) No.1088 of 2026)

SUJAL VISHWAS ATTAVAR & ANR. ...APPELLANT(S)

vs.

THE STATE OF MAHARASHTRA & ORS. ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. OF 2026
(@ of Special Leave Petition (Crl.) No.1133 of 2026)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The appellant(s) have preferred the present appeal(s) against the impugned interim order dated 17.12.2025 passed by

the High Court of Judicature at Bombay in Writ Petition No.5154 of 2025, whereby the High Court had directed the police to record the statement of Director, Mrs. Asha Shivajirao Sanap, of E & G Global Estates Ltd. (hereinafter referred to as the '*Complainant Company*') and initiate necessary action as per provisions of law. Pursuant to the said direction, FIR[1] No.0194/2025 came to be registered against the present appellant(s).

3. Although the question raised in this appeal is one of relative simplicity i.e., whether under Article 226 of the Constitution of India a direction could be given to State Authorities to register an FIR without the applicant first having taken recourse to the alternative remedies provided in law. This question however arises from a convoluted set of facts involving various commercial transactions and as such it would be important for the purposes of clarity to appreciate the same.

3.1 The property in question, bearing Gut No.82 situated at Mouje Talwade, Trimbakeshwar, District Nashik, was purchased by the complainant Company (Respondent No.2 herein) *vide* a Sale Deed dated 11.10.2010 and was thereafter developed into a leisure resort named as '*E&G Green Valley*' comprising of 22

[1] Short for 'First Information Report'.

villas (Unit No.1 to 22) and a composite Unit No.23 consisting of studio apartments and allied structures.

3.2 Upon its completion, the complainant Company executed an Agreement to Lease dated 31.03.2012 in favour M/s. E & G Resorts Pvt. Ltd., a Company in which respondent no.7[2] is the Director. It is alleged that a registered Lease Deed dated 27.06.2014 was fraudulently executed between the complainant Company and M/s. E & G Resorts Pvt. Ltd., in respect of Unit No.23, pursuant to which possession of the said unit was taken over by the latter as a lessee.

3.3 Subsequently, since the complainant Company was classified as a Non-Performing Asset, a Corporate Insolvency Resolution Process[3] was initiated and *vide* order dated 24.06.2020, a statutory moratorium under Section 14 of the Insolvency and Bankruptcy Code 2016[4] came into force.

3.4 It is the case of the complainant Company that during the subsistence of the aforesaid moratorium, M/s. E&G Resorts Pvt. Ltd., executed a sub-lease deed dated

[2] Mrs. Sheetal Vishwas Attavar – Appellant No.1 in Crl A@SLP (Crl) No.1133/2026.
[3] Hereinafter 'CIRP'.
[4] Hereinafter 'IBC'.

14.10.2022 in favour of respondent no.7 – Mrs. Sheetal Vishwas Attavar. Under the guise of said sub-lease deed, respondent no.7 along with the present appellants(s) is alleged to have asserted rights over the entire project including Unit No.23 and began collecting maintenance charge, creating third-party interests and carrying out unauthorized constructions causing inconvenience to other lessees.

3.5 Consequently, multiple civil suits were instituted *inter se* the parties, including suits challenging the validity of the sub-lease deed dated 14.10.2022 and seeking an injunction from creating encumbrances or third-party rights. It is not in dispute that such civil proceedings are presently pending adjudication before competent Courts.

3.6 The genesis of the criminal allegations, however, arise from certain events stated to have occurred between December 2024 and April 2025. It is alleged that the accused persons, including the present appellant(s), submitted an application for measurement of the property on 02.04.2025 in the name of the complainant Company using forged documents and fabricated details and signatures. It is further alleged that during the survey on 19.04.2025, a woman impersonated herself as the Director

of the complainant Company, namely Mrs. Asha Shivajirao Sanap, and misled the Revenue officials into completing the measurement process. According to the complainant Company, the aforesaid acts were undertaken with an intent to regularize the alleged unauthorized constructions and assert control over the property, particularly after the complainant had, in September 2024, directed certain lessees, including the appellant(s), to remove encroachments and illegal structures.

3.7 Upon discovering these facts in June 2025, the complainant Company, through Mrs. Asha Shivajirao Sanap, filed complaints dated 13.06.2025 and 09.07.2025 before the Deputy Superintendent of Land Records Office, Trimbakeshwar, alleging commission of forgery, impersonation and fraud in the measurement application and sought registration of FIR.

3.8 The matter was considered by the Land Records Authority, and a hearing was conducted; however, by letter dated 29.07.2025, the Authority declined to take any coercive action and advised the complainant to seek redressal from the competent authority. The relevant part of the letter is extracted below:

> "Subsequently, in connection with your above mentioned complaint application regarding the above reference, the date of 16.7.2025 was fixed by giving notice to the survey applicant and you/the complainant to present your respective statements. … It was found that you have not filed the survey application for the said Gut No. 82 nor paid the survey fee. You stated in the complaint application and during the hearing that the said survey application should be disposed of without action. Looking at the points mentioned in your complaint application, it is your contention that a third party has filed the application by providing forged documents in your name. You have also mentioned in the complaint application you/the company and the lessees of the said property are in a court dispute and that sale of the said property is mutual, etc. Despite being served with the hearing notice, the holders who filed the survey application were not present for the said hearing.
>
> Therefore, considering your complaint application, the statement filed by you at the time of the hearing, and all the documents submitted, it would be appropriate for you to seek redressal from the competent authority ,if necessary, regarding the said property dispute"

(emphasis supplied)

3.9 On the same date, the Deputy Superintendent of Land Records, Trimbakeshwar, also wrote a letter to the Police Inspector, Trimbakeshwar, bringing to notice the allegations of fake measurement and stated:

> "Sir,
> In the above-referenced complaint applications dated 13.06.2025 and 09.07.2025 of M/s E. and G. Global Estate Ltd., it has been stated that a fake measurement application for Gut No. 82 at Village Talwade (Tr) by forging signatures and other documents, including Aadhaar cards, has been uploaded online to the Office of the Deputy Superintendent of Land Records,

> Trimbakeshwar. Looking at the contents of the application, fake measurement applications and documents are, mentioned therein. It is requested that appropriate legal action be taken from your level following the investigation of the facts as per the complainant's demand."

3.10 In response, the Police Authorities, by letter dated 01.09.2025, returned the matter to the Land Records Department, for further inquiry stating that:

> "… Upon reviewing the said complaint application, the nature of the matter in the application is very serious and since this matter is related to your office, it is necessary that the redressal of this matter be done by your department. If there is anything contrary to the rules in this matter, a written complaint to that effect should be given to this office by your office.
>
> Therefore, the original complaint application and photocopies of the referenced applications numbered 01 to 09 are being returned to your office for further, inquiry."
>
> (emphasis supplied)

3.11 Aggrieved thereby, the complainant Company invoked the writ jurisdiction of the High Court under Article 226 of the Constitution of India, *inter alia*, seeking:

> " … … …
> b. pending hearing and final disposal of this Petition, this Hon'ble Court be pleased to direct the Respondent No.3 Senior Police Inspector, Trimbakeshwar Police Station, Nashik to forthwith register offence punishable under Section 318, 336, 319 and other allied provisions under Bhartiya Nyaya Sanhita, forthwith against the

> Respondent Nos.6 to 10 and such other persons who have aided and abetted Respondent Nos.6 to 10 in committing aforesaid offence;"

3.12 The High Court *vide* the impugned interim order dated 17.12.2025, without issuing notice, directed the Director of the complainant Company to appear before the police for recording of her statement and further directed that action be taken in accordance with law. The order is extracted in toto as under:

> "1) Learned APP on instructions from Mr. Mulane, PC., Trimbakeshwar Police Station submitted that, let the Director of Petitioner attend the Office of Senior Inspector of Police, Trimbakeshwar Police Station, District Nashik, tomorrow i.e. 18th December 2025, by 11.00 a.m., to record her statement.
>
> 1.1) That, after recording the statement of the Director of Petitioner, necessary action as per the provisions of law will be initiated.
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> 2) At the request of learned APP, stand over to 22nd December 2025."

3.13 Pursuant thereto, the police registered FIR No.0194/2025 dated 23.12.2025 against the appellant(s) under Sections 318(2), 318(4), 319, 335, 336(2), 336(3), 337, 338, 340(2), and 61(2) of the Bharatiya Nyaya Sanhita 2023[5].

[5] Hereinafter 'BNS 2023'.

4. In that view of the matter, the accused-appellant(s) are before us contending that the registration of the FIR is a direct consequence of the directions issued in writ proceedings, and is therefore, contrary to law since alternative remedies available under the statutory framework have not been exhausted. It is further contended that the FIR has been lodged as a counterblast to the civil disputes pending between the parties. We have heard the learned senior counsel for the appellant(s) and learned counsel for the respondent(s) as also perused the material placed on record.

5. At the outset, it would be apposite to reiterate the settled principle of law governing the exercise of writ jurisdiction. While the jurisdiction of the High Court under Article 226 of the Constitution of India is wide, it is well established that such jurisdiction is extraordinary, discretionary and subject to certain self-imposed restrictions. In ***Radha Krishan Industries v. State of H.P.***[6], a co-ordinate Bench of this Court has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternative remedy and held as under:

> "**27.** The principles of law which emerge are that:
>
> **27.1.** The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

[6] (2021) 6 SCC 771

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (*a*) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (*b*) there has been a violation of the principles of natural justice; (*c*) the order or proceedings are wholly without jurisdiction; or (*d*) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

(emphasis supplied)

[See also: ***Thansingh Nathmal v. Superintendent of Taxes***[7] and ***Whirlpool Corporation. v. Registrar of Trade Marks***[8]]

[7] AIR 1964 SC 1419.
[8] (1998) 8 SCC 1.

5.1 Similarly, very recently this Court in ***Rikhab Chand Jain v. Union of India***[9] held as under:

> "**10.** We may profitably refer, in this context, to the Constitution Bench decision in *Thansingh Nathmal* v. *Superintendent of Taxes* [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] . In *Thansingh Nathmal* v. *Superintendent of Taxes* [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] , this court had the occasion to lay down a principle of law which is salutary and not to be found in any other previous decision rendered by it. The principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. The relevant passage from the decision reads as follows (page 474 in 15 STC):
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> > "… The jurisdiction of the High Court under article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or Tribunal, to correct

[9] 2025 SCC OnLine 2510.

> errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up."
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> (emphasis ours)

12. That apart, the majority view in a previous Constitution Bench in *A.V. Venkateswaran, Collector of Customs* v. *Ramchand Sobhraj Wadhwani* [1961 SCC OnLine SC 16; AIR 1961 SC 1506.] reads thus:

> "14… ., we must express our dissent from the reasoning by which the learned judges of the High Court held that the writ petitioner was absolved from the normal obligation to exhaust his statutory remedies before invoking the jurisdiction of the High Court under article 226 of the Constitution. If a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the court dealing with his petition under article 226 to exercise its discretion in his favour. Indeed, the second passage extracted from the judgment of the learned C.J. in *State of U.P.* v. *Mohammad Nooh* [1957 SCC OnLine SC 21; AIR 1958 SC 86.] with its reference to the right to appeal being lost 'through no fault of his own' emphasizes this aspect of the Rule."
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> (emphasis ours)

In essence, this court was of the opinion that once a petitioner has due to his own fault disabled himself from availing a statutory

remedy, the discretionary remedy under article 226 may not be available."

6. In the same vein, this Court has duly considered the question as to whether the remedy under Article 226 can be availed of if there exists inaction and/or nonaction by the police in registering the FIR relating to a cognizable offence. We may refer to few such pronouncements:

6.1 In ***Sakiri Vasu v. State of U.P.***[10], a co-ordinate Bench of this Court observed:

> "**11.** In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned. …
>
> … … …
>
> **25.** … we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper 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 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy…
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> **26.** If a person has a grievance that his FIR has not been registered by the police station his first remedy

[10] (2008) 2 SCC 409.

is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. 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) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 CrPC simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police.
…

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere."

(emphasis supplied)

[See also: ***All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India***[11]; ***Aleque Padamsee v. Union***

[11] (1996) 11 SCC 582.

of India[12]; ***M. Subramaniam v. S. Janaki***[13]***;*** and ***Anurag Bhatnagar v. State (NCT of Delhi)***[14]]

6.2 Following the law laid in ***Sakiri Vasu*** (supra), this Court in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***[15], observed as under:

> "**2.** This Court has held in *Sakiri Vasu* v. *State of U.P.* [*Sakiri Vasu* v. *State of U.P.*, (2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440 : AIR 2008 SC 907], 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. … We have said this in *Sakiri Vasu case* [*Sakiri Vasu* v. *State of U.P.*, (2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440 : AIR 2008 SC 907] 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.
>
> **3.** 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 Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report

[12] (2007) 6 SCC 171.
[13] (2020) 16 SCC 728.
[14] 2025 SCC OnLine SC 1514.
[15] (2016) 6 SCC 277.

> and also ensure a proper investigation in the matter, and he can also monitor the investigation."
>
> (emphasis supplied)

7. Keeping in view the above exposition of law, we find that the extraordinary jurisdiction under Article 226 of the Constitution of India ought not to have been invoked when alternative equally efficacious statutory remedies were available. 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 conducted, then the remedy does not ordinarily lie in invoking the writ jurisdiction in the first instance, but in seeking recourse to the statutory framework, unless of course the urgency of the circumstances warrant otherwise.

8. The Bharatiya Nagarik Suraksha Sanhita 2023[16] (*erstwhile Code of Criminal Procedure, 1973*[17]) provides a structured sequential mechanism for initiating criminal prosecution. The statutory framework contemplates that information relating to the commission of a cognizable offence is first placed before the officer-in-charge of the police station and an FIR is registered under Section 173(1) BNSS. In the event of refusal to register the FIR, recourse lies before the jurisdictional Superintendent of

[16] Hereinafter referred to as 'BNSS'.
[17] Hereinafter referred to as 'CrPC'.

Police under Section 173(4) BNSS and, thereafter, before the Magistrate, under Section 175(3) BNSS.

9. In the present case, it is evident from the record that the complainant Company initially approached the Land Record Authority, by way of complaints dated 13.06.2025 and 09.07.2025, with copies thereof being sent to the police authority. However, it did not avail any of the statutory remedies provided under BNSS and instead directly invoked the writ jurisdiction of the High Court, *inter alia*, seeking directions for registration of FIR. In our considered view, such a recourse, in the first instance, is contrary to the settled principles of law. Particularly in the absence of imminent danger of violation of life or liberty of an individual. Article 226 is not a panacea for all grievances.

10. It is not the case of the complainant Company that it had approached the concerned Superintendent of Police or Magistrate prior to filing the writ petition, nor has any material been placed on record to show that such remedies were unavailable or inefficacious. Entertaining a writ petition, in the said circumstances, would in effect, result in the High Court, acting as a forum of first instance thereby bypassing the statutory scheme in its entirety. This is impermissible, save and except in special circumstances as mentioned in ***Radha Krishan***

Industries (supra), which are conspicuously absent in the present case.

11. The High Court is not bound to entertain a writ petition merely because a case of alleged inaction or negligence is made out against a statutory authority. Ordinarily, where a statute provides a complete and efficacious remedy, the same must be exhausted before invoking constitutional jurisdiction [See: ***Sakiri Vasu*** (supra) and ***Sudhir Bhaskarrao Tambe*** (supra)]. In the present facts, the complainant Company, has not exhausted the sequential statutory remedies available under BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of the High Court for the reason that efficacious and efficient alternative remedies exists. Hence, at this stage, we find the instant writ petition to be premature, and, therefore, not fit to be entertained.

12. Considering the above, we set aside the impugned interim order and quash FIR No.0194/2025 registered pursuant thereto. Liberty is reserved for the parties to espouse alternative remedies, as may be available, in accordance with law, if so advised. Any recourse to such a remedy shall be considered on its own merits by the competent forum.

13. Nothing contained in the present judgment shall be construed as an expression of opinion on the merits of the case or as to whether or not the facts disclose the commission of any criminal offence.

14. In view of the above, appeal(s) stand allowed. Pending application(s), if any, shall stand disposed of.

…….J.
(SANJAY KAROL)

…….J.
(AUGUSTINE GEORGE MASIH)

New Delhi;
May 4, 2026