

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

CRIMINAL APPLICATION NOS.2472, 2473 & 2474 OF 2015

Bharat S/o Marotrao Ghuge

.. APPLICANT

Versus

The State of Maharashtra

..RESPONDENT

...

Shri S.S.Thombre,Adv. for applicant

Smt.S.G.Chincholkar,APP for respondent State

...

CORAM : V.M.DESHPANDE,J.

DATED : 21ST JULY, 2015

ORDER :-

These three applications can be disposed of by this common order in view of the fact that in these three applications, applicant is one and the same and the nature of the allegations made against him in the three different First Information Reports are the same. Further the learned A.P.P. has also filed a common reply in these three different applications.

2] Heard Shri S.S.Thombre, leaned counsel for the applicant in these three applications and Smt.Chincholkar, learned APP for the State.

3] Criminal Application No.2472/15 arises out of Crime No.7/15,

Criminal Application No.2473/15 arises out of Crime No.9/15 and Criminal Application No.2474/15 arises out of Crime No.10/15. All these crimes are registered with Jintur police station, Dist.Parbhani for offences punishable u/s 406, 409, 420, 467, 471, 120(B) of I.P.C.

4] The applicant is Panal Technical Officer of Panchayat Samiti, Jintur. It is also not case of the prosecution that the present applicant is a public servant inasmuch as he is not the employee of Panchayat Samiti, Jintur. According to the case of the prosecution, in these three different crimes, certain works were shown to have been completed, however in fact the said work was not done and thereby the loss is caused.

5] The present applicant is not only the accused person in the crime. Alongwith the present applicant, the employees of the Panchayat Samiti holding rank of Agriculture Officer, Sarpanch of Panchayat Samiti village Dabha are also joined as accused. The Coordinator, Mahatma Gandhi Rashtriya Rojgar Hami Yojana who is also the Collector of Parbhani issued an order on 21/7/2011 by which Shri N.V.Chavan the Agriculture Officer of Panchayat Samiti was appointed a Guardian Technical Officer of Panchayat Samiti, Jintur. The said order shows that the Panal Technical Officers like present applicant to extended help to Guardian Technical Officers and since the Panal Technical Officer is not an employee, the entire responsibility of the work in respect of measurement book, muster, etc. should be of Guardian Technical Officer.

6] Further from the reply, it is clear that the Ombudsman of Mahatma Gandhi Rashtriya Rojgar Hami Yojana has conducted enquiry and submitted the report. In the said, he noticed that one Vatsalabai Kailas Sangle the then Sarpanch of Dabha has certified

the muster in respect of construction of Mati Nala. In the said report, the Ombudsman has found that the present applicant has not discharged his duties properly. However, the entire report is completely silent about the misappropriation on the part of the present applicant. Further the report is completely silent that the present applicant was in any way concerned in respect of the preparation, certification of the muster role, measurement book etc. In that view of the matter, at the most, the applicant can be held responsible for lapses while discharging his duties, however, there is no material atleast prima facie to hold that the investigation of the crime cannot proceed further unless the applicant is given custody and that leads me to pass following order :

ORDER

A] All the applications are allowed. The interim order dated 7/5/2015 granted in each of the application in favour of the applicant stands confirmed.

B] Applications are disposed of.

(V.M.DESHPANDE,J.)

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