

FARAD CONTINUATION SHEET NO.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3560 OF 2015**[Kalpajeet @ Kadubal Ramhari Doiphode and anr. Vs The State of Maharashtra]****WITH****CRIMINAL APPLICATION NO. 3412 OF 2015****[Bhaurao Ramdas Veer vs The State of Maharashtra]****AND****CRIMINAL APPLICATION NO. 3413 OF 2015****[Ajay Gajanan Pawar vs The State of Maharashtra]**

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri N.V.Gaware, advocate for applicants in 3560/2015
Shri A.S.Barlota, advocate for applicant in 3412/2015
Shri A.P.Bhandari, advocate for applicant in 3413/2015
Shri A.S.Shinde, A.P.P. for respondent
Shri A.A.Nimbalkar, advocate for the first informant

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CORAM : V.M.DESHPANDE, J.**DATED : 17th July, 2015****PER COURT :-**

1] These three applications can conveniently be decided by the present common order, since those arise out of Crime No. M-4 of 2015, registered with Pathardi police Station, District Ahmednagar, for the offences punishable under Sections 107, 166, 167, 504, 506, 409, 420, 463, 464, 465, 467, 468, 474 r/w 34 of the Indian Penal Code.

2] I have heard Shri N.V.Gaware, learned counsel for applicants in Criminal Application No. 3560/2015; Shri A.S.Barlota, learned counsel for applicant in Criminal

Application No. 3412/2015; and Shri A.P.Bhandari, learned counsel for applicant in Criminal Application No. 3413/2015; and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State and Shri A.N.Nimbalkar, learned counsel for the first informant.

3] All these three applications were vehemently opposed by the learned Additional Public Prosecutor Shri A.S.Shinde. Shri A.A.Nimbalkar, learned counsel, who filed an application representing the first informant to assist the learned Additional Public Prosecutor has also argued independently and submitted case of the first informant. He is also heard in extenso.

4] Prior to registration of crime, a complaint under Section 156 (3) of the Code of Criminal Procedure was filed by Bhagwan Navnath Narote in the court of Judicial Magistrate, First Class, Pathardi. The said complaint was registered as Miscellaneous Application No. 56 of 2015. The learned Magistrate on 10.4.2015 directed the concerned police station to investigate the case. On the basis of same, the present first information report is lodged and the case is registered.

5] Applicants in Criminal Application No. 3560 of 2015 are husband and wife. They are Chairman and Secretary of Late Ram Hari Doiphode Trust. The said trust is duly registered under the Bombay Public Trust Act.

Applicants in Criminal Application Nos. 3413 and 3412 are the District Sport Officers of Ahmednagar. Applicant in Criminal Application No. 3413 of 2015 was holding the charge of the said post from 23.7.2009 to 16.12.2012; whereas applicant in Criminal Application No. 3412 of 2015

was assisting the applicant in Criminal Application No. 3413 of 2015.

6] There is a policy of the State Government to give financial assistance for construction of Gymnasium, for maintenance of the building and for purchase of Gymnasium equipments

7] According to the prosecution, the trust submitted a proposal with the authority for construction of a Gymnasium on a property Gat No. 746. According to the learned Additional Public Prosecutor and also the learned counsel for the first informant, for obtaining the financial assistance the property should stand in the name of the trust. According to them, at the relevant time Gat No. 746 was not standing in the name of the trust. In spite of that, proposal was initiated. According to the prosecution, this particular document was a forged document and thus they have committed an offence.

8] Learned Additional Public Prosecutor has submitted that there exists a Gymnasium on property No.35 as claimed by the applicants in Criminal Application No. 3560 of 2015. He also submitted that it was found that necessary Gymnasium equipments were available in the said property.

9] According to the learned counsel Shri Nimbalkar, this particular Gymnasium, which is in existence in property no.35, was already in existence and not constructed as claimed by applicants in Criminal Application No. 3560 of 2015. Thus, in so far as existence part is concerned, there is no dispute. The dispute is when and who has constructed the same. Ultimately, it is the matter of trial and that can be revealed during the course of the trial.

10] Learned Additional Public Prosecutor has fairly submitted that applicants in Criminal Application Nos. 3412 and 3413 of 2015 are not responsible for any misappropriation and the learned counsel Shri Nimbalkar submitted that they are guilty of committing lapses on their part. Therefore, if everything is taken against them, at the most they have committed certain lapses for which departmental inquiry can be held against them. Till today, it is not the case of the prosecution or the first informant that any departmental action is taken against them.

11] In so far as custody of the applicants in Criminal Application No. 3560 of 2015 is concerned, the learned counsel for the first informant submits that their custody requires for the signatures and specimen of their handwriting. Even the learned Additional Public Prosecutor has submitted for the same.

12] Admittedly, entire documents pertaining to this crime are already seized and are already in possession of the investigating officer. In that view of the matter, for the purposes of only the specimen signature and handwriting, the custodial presence of the applicants is not necessary. They can be directed to join the investigation and cooperate the investigating officer. That leads me to pass following order.

O R D E R

(i) Criminal Application Nos. 3560, 3412 and 3413 of 2015 are allowed.

(ii) Applicants No.1-Kalpjeet @ Kadubal Ramhari Doiphode and No.2-Kalpana s/o Kalpjeet Doiphode in Criminal Application No. 3560/2015;

Applicant-Bhaurao Ramdas Veer in Criminal Application No. 3412/2015; and Applicant-Ajay Gajanan Pawar in Criminal Application No. 3413/2015, in the event of their arrest, in connection with Crime No. M-4 of 2015, registered with Pathardi police Station, District Ahmednagar, for the offences punishable under Sections 107, 166, 167, 504, 506, 409, 420, 463, 464, 465, 467, 468, 474 r/w 34 of the Indian Penal Code, be released on anticipatory bail, on they each executing P.R.bond of Rs.5,000/- with one solvent surety in the like amount by each of them.

(iii) Applicants No.1-Kalpjeet @ Kadubal Ramhari Doiphode and No.2-Kalpna s/o Kalpjeet Doiphode in Criminal Application No. 3560/2015 shall attend police station Pathardi on 28.7.2015 and they shall remain with the investigating officer from 11.00 a.m. to 2.00 p.m.

(iv) Applicants No.1-Kalpjeet @ Kadubal Ramhari Doiphode and No.2-Kalpna s/o Kalpjeet Doiphode in Criminal Application No. 3560/2015 shall give specimen of their handwriting and also the signatures to the investigating officer.

(v) Applicants No.1-Kalpjeet @ Kadubal Ramhari Doiphode and No.2-Kalpna s/o Kalpjeet Doiphode in Criminal Application No. 3560/2015 are further directed to attend the police station Pathardi as and when required by the investigating officer, however, for that the investigating officer shall give clear cut prior

notice of 48 hours to them.

(vi) Applicant-Bhaurao Ramdas Veer in Criminal Application No. 3412 of 2015 and Applicant-Ajay Gajanan Pawar in Criminal Application No. 3413 of 2015 are directed to attend the police station Pathardi as and when required by the investigating officer. If the investigating officer wants their attendance, the investigating officer shall give clear cut prior notice of 48 hours to them and shall call them on Sunday in view of the fact that they are serving as Government officials.

(vii) Application is disposed of.

(V.M.DESHPANDE, J.)

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