

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Application No.4394 Of 2013.

Sandip s/o Balasaheb Sontakke.
Age : 28 Years., Occ.: Service.
Kalpataru Gramin Vikas Pratisthan.
R/o.: Shaikh, Taluka – Jintur,
District – Parbhani.
At present R/o.
Mandakhali,
Taluka & District – Parbhani.

Applicant.

Versus

- (1) Kishan @ Dattatraya
Shivsambhu Sontakke.
Age : 36 Years., Occ.: President
of Kalpataru Gramin Vikas
Pratisthan
- (2) Sheetal Ashokrao Dhule @
Sheetal w/o Kiran Sontakke.
Age : 30 Years., Occ.: Service.
- (3) The State of Maharashtra.
Through Incharge Police Station
Officer, Nanapeth Police
Station, Parbhani,
District – Parbhani.

Non-Applicants.

Appearance =>

Mr. P. R. Katneshwarkar, Advocate with Mr. R.D. Kawade, Advocate,
for the Applicant.

Mr. S.S. Rathi, Advocate for Non-Applicant Nos. 1 and 2.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of
Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 6th August, 2015.

ORAL JUDGMENT :-

Rule. Rule returnable made forthwith. With consent of learned counsel for the parties, Writ Petition is taken up for final hearing.

[2] Heard learned counsel for the Applicant, learned counsel for Non-Applicant Nos. 1 and 2 and learned Additional Public Prosecutor for the State of Maharashtra.

[3] By the present Application, the Applicant is seeking cancellation of anticipatory bail order dated 14th August, 2013 passed by the learned Additional Sessions Judge, Parbhani, District – Parbhani in Criminal Misc. Application No. 91 Of 2013 in connection with CR No. 224/2012 registered with Police Station – New Mondha, Parbhani, District – Parbhani for the offences punishable under Section/s 420, 467, 468, 471, 473 193 read with 34 of the Indian Penal Code.

[4] The present Applicant and Non-Applicant No.1 are close relatives. According to the First Information Report on 17th July, 2012 he received notice from the office of the learned Assistant Charity Commissioner, Parbhani. Accordingly, present Applicant appeared before the said Trust authority, through his Advocate. After making himself present, through the Advocate, before the learned Assistant Charity Commissioner, it was noticed that there occurs change in the Trust.

[5] According to the First Information Report, Non-Applicant Nos. 1 and 2 have prepared bogus and false documents and have shown that change has occurred in the Trust. According to the First Information Report, at no point of time, the Applicant has tendered his resignation and no meeting took place either on 15th October, 2011 or 30th October, 2011. On the aforesaid basic accusation, Crime was registered.

[6] After hearing the parties to the present Application, it is clear that, the Trust was registered in the name of Kalpataru Gramin Vikas Pratisthan, Shaikh, Taluka – Jintur, District – Parbhani and it bears registration No.F-5290. In the Schedule – 1, name of the present Applicant is shown as Secretary of the said Trust; where-as name of present Non-Applicant No.1 is shown as Trustee of the said Trust.

Undisputely, change was reported under the signature of the Non-Applicant No.1. By the said, it is reported to the Trust Authority namely – Assistant Charity Commissioner, Parbhani that the change has occurred in the Trust.

[7] According to the Change Report, present Applicant – Sandeep has tendered his resignation from the post of Secretary. His resignation was accepted and in view of the resignation, Non-Applicant No.2, who is wife of Non-Applicant No.1 was elected as Secretary of the said Trust.

Said change is reported to the Assistant Charity Commissioner. Even according to the present Applicant, said change is objected by the present Applicant. Said change report is still pending on the file of the learned Assistant Charity Commissioner, Parbhani. Before the said Trust Authority, it is specific case of the present Applicant that the change

which shown to have been occurred in the said Trust, is bogus one and at no point of time, present Applicant has tendered his resignation from the post of Secretary.

[8] According to the learned counsel for the Applicant, Non-Applicant Nos. 1 and 2 have withdrew crores of rupees from the bank account of the said Trust.

Undisputedly, the bank account is to be operated under the joint signatures of the President and Secretary of said Trust. According to the learned counsel for the Applicant, said joint account is operated by the present Non-Applicant No.1 and Non-Applicant No.2.

Since the bank account is to be operated under the signatures of the President and the Secretary of said Trust, prima facie, no fault can be located, presently, if the account is operated by the Non-Applicant Nos. 1 and 2.

At present Non-Applicant Nos. 1 and 2 are President and Secretary of said Trust, respectively.

[9] The issue in respect of appointment of Non-Applicant No.2 as Secretary of said Trust in place of Applicant is seisin with the learned Assistant Charity Commissioner, Parbhani. The very grounds for challenging the election of Non-Applicant No.2 are yet to be adjudicated. Before the Trust authority, it will be open for the present Applicant to point out that the resignation letter purported to be signed by present Applicant and which is used to show that change has occurred, is fabricated or bogus one.

[10] It will be the only Trust Authority, which will be entitled to vouch and make enquiry in that behalf before reaching to any conclusion. However, presently, there being nothing on record and especially, before the Trust authority, change report is pending. I see no reason to disturb the discretion exercised by the learned trial court, in favour of present Non-Applicant Nos. 1 and 2. Hence, the order :-

ORDER

- (i) Criminal Application is rejected.
- (ii) Rule is discharged.
- (iii) With this Criminal Application is rejected and same is disposed of accordingly.

(V.M. DESHPANDE, J.)