

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

CRIMINAL WRIT PETITION NO.521 OF 2016

Sanjay s/o Rajaram Nyalde,
Age 39 years, Occu. Service,
R/o Bhusawal, Taluka Bhusawal,
District Jalgaon

.. Petitioner

Versus

1. The State of Maharashtra,
Through : Anti Corruption Bureau,
Jalgaon, District Jalgaon
2. The Police Inspector,
Bhusawal Bazar Peth Police Station,
Bhusawal, District Jalgaon

.. Respondents

Mr S.R. Choukidar, Advocate for petitioner
Mr D.R. Kale, A.P.P. for respondents

**CORAM : A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 20th June 2016

PER COURT

1. The petitioner is accused No.3 in Crime No.3089 of 2013, registered at Bhusawal Bazar Peth Police Station. Pursuant to this crime, the Anti Corruption Bureau has filed charge-sheet against the petitioner and two other accused. It is the case of the petitioner that he is unnecessarily roped in this case. Learned Counsel for the petitioner as well as the learned A.P.P. took us through the police papers. The facts of this case in short are as under :

2. Complainant wanted to get certain work done from the official, who is accused No.1 working in petitioner's office. It is the case of the complainant that accused No.1 demanded bribe and the same was ultimately accepted by accused No.2. The

transaction that occurred between the complainant and accused Nos.1 and 2 is not related to the petitioner at all. The petitioner is a superior Officer, working as Nimtandar of Land Records Office. It is alleged by two witnesses that it is the petitioner, who allowed the accused No.2 to seat in the office, outside which the incident of acceptance of bribe money occurred. In view of these allegations, the prosecution is trying to suggest that the petitioner, who is accused No.3 should be prosecuted for offence of abetment, but having regard to the definition of the term 'abetment', we are not inclined to accept the contention of the prosecution for constituting offence of abetment. The accused should do or abstain from doing something physically so as to help the other accused committing the offence. In this case, the demand and acceptance of bribe are the main ingredients of the offence against accused Nos.1 and 2. The said transaction is apparently not aided and abetted by the petitioner - accused No.3. The case against the petitioner - accused No.3 deserves to be set aside.

3. Accordingly, Writ Petition is allowed in terms of prayer clause (C) to the extent of petitioner - accused No.3.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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